The American
Political Science Review

VOL. XXVIII OCTOBER, 1934 NO. 5

# INTERNATIONAL ECONOMIC COÖPERATION AT THE CROSS-ROADS

S. H. BAILEY
*London School of Economics and Political Science*

International concerted action by states in economic affairs, save in the sphere of communications and transport, has a history of little more than one generation's span. Indeed, apart from the three disconnected conventions concluded before the Great War at Brussels concerning sugar subsidies, the publication of customs tariffs, and the exchange of comparable commercial statistics, respectively, efforts for international coöperation between governments date only from the Peace Settlement. Of the pre-war agreements, the first was denounced before the War; the second, which might still prove of considerable importance when national tariffs become fairly stable, has proved ineffective in a period of violent tariff changes; while the third came into operation only in 1922.

The movement, therefore, with the important exceptions in the sphere of communications and transport, owed its impetus to the work of the Peace Conferences; but save for Part XIII of the Versailles Treaty and the similar provisions of the other treaties—the labor clauses—no specific machinery was established by the treaties either within or without the framework of the Covenant for economic coöperation. In this, as in other respects, the peace treaties probably reflected the state of opinion at the time of their conclusion. On the one hand, the strength behind the claims of the industrial working-class movement, supported by the fears of Western capitalism of the so-called Bolshevik menace, could not be withstood. The plans for an International Labor Organization



LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

for the promotion of international labor legislation were accordingly accepted. On the other hand, outside a small circle of experts, there was no general realization of the possibilities of or necessity for coöperation upon the wider problems of economic and financial organization. Nevertheless, the insertion of paragraph (e) in Article 23 of the Covenant relating to the provision of equality of opportunity for the commerce of all nations at least ensured that one branch of economic life—international trade—would come under the scrutiny of the members of the League of Nations. But it was certainly not foreseen that the casting of this small stone would give rise to the Economic Organization of the League, and ultimately to an extensive series of efforts to reach international agreement on matters stretching to the very limits of the economic system.

Thus the specific field of economic action laid down in the Covenant is represented by the term international trade.[1] This original pre-occupation with commerce has dominated until very recently all the subsequent work of the League in the economic sphere. But the chaotic financial situation of post-war Europe soon imposed on the League the necessity for at least expert consideration of the problems of currency restoration and general exchange stability. The outcome of the Brussels Financial Conference of 1921 was the growth of a Financial Organization also totally unforeshadowed in the Covenant, and the provision of financial relief schemes for Austria, Hungary, Greece, Bulgaria, and other states. The emphasis in the financial sphere was thus at first laid upon currency restoration and stabilization to be realized by the observance of the rules of orthodox finance, above all by the maintenance of budgetary equilibrium leading to a return to the gold standard and, when once the latter had been restored, by ensuring its operation as a self-adjusting mechanism for the international balance of payments. The apparently successful restoration of the greater part of the world's currencies, and of general exchange stability by 1927, represented the partial attainment of these objectives. This made possible the summoning of the first World Economic Conference, which in turn may be said to have represented the peak of the movement to reduce, by successive stages

[1] Other provisions in the Covenant, Article 23(e), relating to communications and transit, while of obvious indirect relevance, cannot be said to be directly connected with the subject of this discussion.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

through subsequent diplomatic agreements, the obstacles to international freedom of trade. The Conference, it is true, gave considerable time to the discussion of the problems of industrial rationalization and of agriculture, but the emphasis throughout was laid on, and the attention of public opinion more particularly directed to, the problem of creating a régime of greater freedom for international trade. This bias sprang from that belief in "the system" which characterized for so long and until very recently the approach of the vast majority of experts on economic questions to the issues for which international coöperation has been invited. It seems to have been the predominant conviction of those who were responsible for framing the Report of the Conference, and of the members of the Economic Committee of the League, not only that much of the apparatus of economic protectionism could be swept away by a direct concerted attack upon it, but also that the régime of free trade which would follow would inevitably solve most of the pressing problems of economic organization. Classicism and Cobdenism combined to produce what is admittedly the most authoritative and concise statement of economic liberalism.

But the attempts to translate the propositions of the Report into practice have not so far justified this approach. The reasons for their general failure may be attributed partly to the further break in agricultural prices and the boom in the United States, which were gale-warnings of the crisis to come. There can be little doubt, however, that the stranding of the recommendations of the Report upon the shores of a theoretical Tristan de Cunha were not solely, or even mainly, due to an unforeseen and irresistible act of God, but resulted from failure to decide between two divergent principles of economic organization.

But before an attempt is made to consider this proposition attention must be drawn to the extended scope of the League's financial and economic activities which has now come about. On the recommendation of the principal experts, the Financial Committee began to study the problems of double taxation and tax evasion, which were referred to a special Fiscal Committee appointed in 1928. Between 1926 and 1930, an investigation was made and negotiations took place which resulted in the Convention on Counterfeit Currency in 1930. The investigations conducted by the Gold Delegation into "the causes of the fluctuations in the purchasing power of gold, as well as their effects on the economic

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

life of nations," marked a further extension. Thus, down to 1931, the financial activity was concerned, first, with the problems of post-war reconstruction, secondly, with removing the inconsistencies of national legislation, thirdly, with preventive measures against a major criminal offense, and, finally, with large-scale expert investigations into the nature and causes of fluctuations of the price-level in terms of gold.[2] Until the accentuation of the crisis toward the close of 1930 and the beginning of the preparatory work in connection with the second World Monetary and Economic Conference, the wider international problems of peace-time financial policy and organization had not been officially considered. The final Report of the Gold Delegation, however, had inevitably to follow a broader sweep and give some indication of future policy with regard to the major issues thrown into sharp relief by the intervening collapse of the financial system of the world. The tone and form of the Report leave little room for doubt, however, of the confidence of the Delegation in the beneficent working of "the system"—the self-adjusting mechanism which formed itself on the basis of nineteenth-century economic conditions—when once it could be restored on conditions satisfactory to the principal economic powers.

It is convenient at this stage to mention very briefly the nature of the activities of the Bank for International Settlements, apart from those connected with liquidation of reparations. Once again, the orientation which has been toward the solution of immediate, restricted, or technical problems, such as the participation in the grant of financial aid to the Credit-Anstalt in Austria, the encouragement of collaboration between the central banks to avoid trans-shipments of gold by depositing gold or bills on the account of the B.I.S. in the vault of the central banks themselves; or to prevent the sterilization of commercial bills under the gold-exchange system in certain countries by a centralization of the deposit of bills in the B.I.S. Indeed, it has been held that the Statute of the Bank, for example Article 26, which prescribes stringent rules for the maintenance of liquidity, are an effective obstacle to a wider and more ambitious activity in the field of international credit. Long-term credits are thus almost beyond the capacity of the Bank, although participation in credits from six months to

[2] For a more detailed account of the activities of the Financial Committee, see Greaves, *The League Committees and World Order*, pp. 81–83.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

two years are possible. On March 9, 1931, for example, the Council of Administration of the Bank authorized the president to participate in the bond issue connected with the International Mortgage Credit Bank to be established at Basle. But it is clear that these limited activities did not in any way involve until very recently the official consideration of the major problems of international price and exchange stability or of credit. The first sign of a change of policy may be found in the adoption of a resolution by the Board of the Bank on July 11, 1932, in which the Bank declared itself in substantial agreement with the Report of the Gold Delegation and considered that the conclusions of that Report formed a starting-point for the elaboration of monetary principles to be given practical application in the future. This endorsement may be said once more to indicate a confidence in the working of a predominantly self-adjusting economy.

The Economic Committee of the League has also extended the scope of its investigations. While the first World Economic Conference was occupied mainly with the liberation of international trade, it laid down certain recommendations concerning industrial rationalization. These recommendations were partly used as a basis for subsequent attempts to grapple with the peculiar difficulties of the coal and sugar industries, which appeared to spring from a disequilibrium between productive capacity and effective demand. The former problem was seen to involve a preliminary agreement on hours and conditions of work which was successfully negotiated in draft form in 1931, but which has not yet been ratified. The agreement, known as the Chadbourne Scheme, for the restriction of production in accordance with a quota-system appeared to provide a temporary solution for some of the difficulties of the latter industry. An inquiry into the causes of recurrent economic crises resulted in the special report prepared by Professor Ohlin in 1931 on the course and phases of the world economic depression. But the preparatory work on the agenda for the World Monetary and Economic Conference led to the most notable extension of the purview of the League.

The Preparatory Commission of Experts broke away from the original plan of concentration on the problems of international trade and expressed the opinion that it was no longer possible to make substantial progress by piecemeal measures, that a policy of "nibbling" would not solve the crisis, and that the governments

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of the world should make up their minds to achieve a broad solution by concerted action along the whole front. In the Draft Agenda, prepared for the Conference, therefore, the consideration of the problems of monetary and credit policy, of the disequilibrium between prices and costs, of capital movements, was designed to precede, or at least accompany, attempts to remove restrictions on international trade. A change of method, however, does not necessarily imply a change of principle. It would appear from the notes appended to the Agenda that the confidence of those responsible for its drafting in the operation of a predominantly free economy remains unshaken.

International economic coöperation based on a different principle has been proceeding through another institution of the League, i.e., the International Labor Organization. The origins of the Organization are too well known for any description to be necessary here. But it is essential to emphasize the fact that the conception of securing by international agreement for the workers of the world certain conditions of work and certain standards of life can only with the very greatest difficulty be reconciled with the conception of a self-adjusting economic system. The purpose of international agreements on the hours and conditions of work is the creation of a series of social guarantees for what constitutes in most economically-developed countries the vast mass of the population. It was fully apparent before the outbreak of the Great War that the guarantees already acquired in the countries enjoying more highly developed systems of social legislation were in danger either of destroying the competitive economic position of those countries or of being destroyed unless by general agreement they could be extended to countries where hitherto they had not existed. The progressive attainment of this general objective would involve the progressive creation of new or recognition of old islets within the economic system which could not be threatened with submersion by the rise and fall of the tides of prosperity. The battle raging around the justification for the creation of these islets had already been fought out in some countries, was being fought out in others, while in not a few the struggle had hardly begun. Clearly, the rate of progress internationally was from the first almost entirely dependent on the victory of the principle of social control over the principle of *laissez faire* in the different countries of the world. Nevertheless the I.L.O. has proceeded from the Conference of

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Washington steadily to pile up a collection of over thirty conventions which constitute the skeleton of a code of international labor legislation. But despite the efforts of the late Albert Thomas, who was once described as the world's leading traveller in conventions, nothing approaching universal ratification has been obtained for the greater part of these conventions. Asiatic and South American countries have ratified only a few of the less important. The United States of America and the Union of Socialist Soviet Republics have ratified none.

But once again, as in the case of the Economic Organization of the League, the experience of the International Labor Organization has shown that the problems of economic and financial organization cannot be dealt with piecemeal. The close contact of the Organization with the immediate realities of industrial maladjustment has combined with the remarkable vision of its first Director to place it in at least as favorable a position as the Economic Organization for seeing the problem as a whole. Above all, through the data upon industrial and agricultural conditions in most parts of the world at its disposal, the Organization is admirably equipped for analyzing the present situation and making at least practical suggestions for lightening the burden of unemployment. This has involved an extension of the purview of the Organization to questions of general financial and economic policy. But once more let it be emphasized that the International Labor Organization has reached this point by quite a different route from the path followed by the Economic and Financial Organization. Thus, the two chariots of international economic coöperation harnessed by the peace settlements—the one driven along the commercial thoroughfares of the Economic and Financial Organization, the other through the dreary desolation of industrial civilization out into the open country—have now arrived at the same crossroads. There is every indication that so far their drivers, who often tend to forget that they spring from one and the same parentage, are still hesitating at the choice of alternative ways before them.

This situation must not be ascribed to any undue lack of prescience or incompetence on the part of governments. A guess may be hazarded that very few persons indeed realized in 1919, or even before 1929, the fundamental character of the economic and non-economic changes which have been taking place in the world since

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the second half of the nineteenth century and their interaction upon social thought and economic organization. It may even be questioned whether at any time since the middle of the eighteenth century modern governments, organized on the model followed by most modern democratic governments, could have grappled successfully with the problems of a world whose foundations were imperceptibly changing. For it is the inevitable fate of governmental systems built up on the traditions of the nineteenth century to be led to follow the line of least resistance and, while grappling with the problems which lie ready to hand, to postpone indefinitely the evil day when decisions on principle have to be taken. Modern government is by the force of tradition, structure, and expediency, opportunistic. But as in the sphere of national security, so in that of international economic coöperation, it is claimed that a decision can no longer be avoided. It is even possible to go further and suggest that unwillingness to take a decision can only involve the abandonment, at least for some time to come, of international economic coöperation itself.

But this international conflict of principle cannot be wholly, or even mainly, explained on institutional grounds. It has already been suggested that the clues will be found in the structural changes and in the conflicts of interest which have been taking place behind national positions. The countries of the world may be divided for the purposes of this paper into three broad categories, distinguished roughly according to whether or not a certain stage of political and economic development has been reached by the country in question. The stage of development may be said to be represented by the recognition of the right of freedom of association and the consequent development of politico-economic groups representative of different social and economic interests. The first group is composed of the states of Europe, with certain exceptions in the Balkan Peninsula and Eastern Europe, of North America and the British Dominions, with the possible exception of the Union of South Africa and Southern Rhodesia; the rest of the world falls into the second group, with the exception of the U.S.S.R., which forms the third group.

*Group 1.* For some few years past, there have been indications that social development in the advanced countries was rapidly approaching a critical point. The growth of a strong working-class movement gradually acquiring separate political representa-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

tion and, inspired by ideas distinct from the radical tendencies of progressive-minded liberalism, gave a great impetus to the advancement of claims to equality of opportunity on the part of the less fortunately conditioned classes within each community. The practical realization of these claims, however, either through revolution or isolated working-class action within the constitutional framework from 1880 down to the Great War, was clearly remote. The only possibility of action lay in an alliance with those political elements which displayed a progressive and radical approach toward the social and economic aspirations of the mass of the community. A bridge between Radicalism and Socialism was found in the practical program of "social policy." Acceptance of this program involved sacrifices on either side. On the one hand, the Socialist movement renounced, at least temporarily, any attempt to overthrow the existing economic system based on the principles of private capitalism and individualism, and accepted a policy which involved the building up through constitutional means of social guarantees within the framework of that system. On the other hand, liberal Radicalism descended from its individualist pedestal to make concessions involving so considerable a measure of collective interference and control in various branches of the economic system that the possibility of the adjustment of disequilibria through the operation of what was held to be a "natural" mechanism in a highly dynamic world became more and more remote.[3]

The history of social policy stretches far back into the early years of the nineteenth century, but the movement first felt the air under its wings in the 1880's when legislation establishing social insurance was introduced in Germany. From that time onwards, the principle of "social policy" made its influence felt both directly and indirectly through an ever-widening radius of action by legislative and administrative regulation concerning the treatment of children, the structure of the family, and the combating of poverty. Regulation of the conditions of industrial employment concerning the hygiene of factories and the workers' safety became common. The economic burden caused by accident, sickness, unemployment, and old age was gradually lifted from the shoulders of the

[3] See G. Myrdal, "Socialpolitikens Dilemma," *Social Tidsskrift*, Vol. 8, pp. 99-115, for a penetrating and brilliant analysis of the character and limitations of the compromise between Radical and Socialist ideas.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

working-class. The hours of work for children and women and later, for men, at first in certain occupations, but subsequently for industry as a whole, were limited, and in a few countries minimum-wage rates established. Social policy has also begun to occupy itself with the urban and rural housing-supply. The result in many countries is a formidable code of social legislation, accompanied by a complex system of social services which in turn entails a considerable burden of expenditure on central governments and local authorities, and an appreciable addition to the overhead charges of private capitalistic enterprise.

But sooner or later, even at times when the price-level is rising, a point is reached where the Radical allies of the working-class movement find themselves hesitating before a farther advance. That point may be said to be reached when new proposals can only be carried through either by a further addition to the burden of taxation or by tampering with the rights of private property. In times of depression, when the trade-cycle is on its downward course, the stage may soon be reached without the introduction of new proposals. The increased burden of the social services at a time when prices are falling, unemployment rising, and the rhythm of production and distribution slowing down suffices to weaken the bonds of the alliance. A governmental policy for the social services, of continuance without curtailment, once again revives the dormant conflict of ideologies between Radicalism and Socialism.

The events of the last two and one-half years in the countries belonging to this group have demonstrated beyond any doubt the existence of this internal conflict between two irreconcilable social philosophies. The events of the last twelve years have also shown beyond any question, first, that the international recognition of the principles and practice of "social policy" as it has developed in the more economically-advanced countries is impossible so long as the maintenance of that policy in each national unit is dependent upon conditions of relative prosperity created by an economic system based on a series of private calculations of the opportunities for profit; and, secondly, that without the general international recognition and application of these principles, the maintenance of conditions of relative prosperity in these countries is impossible in the face of the potential competition of the industries of countries altogether without, or with only a rudimentary system of, social legislation.[4]

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

*Group 2.* Many of the countries in which a strong working-class movement has not yet formed itself are also passing through a period of significant change. It is a commonplace that the stimulus to production caused by the Great War and other influences in previously unindustrialized or under-industrialized parts of the world and ultimately fostered, wherever necessary, by governmental protection or subsidies, has brought about a huge extension of productive capacity and a fiercer competitive struggle for markets. In this struggle, whether between economically-advanced countries or between new and old established industrial powers, private interests become identified with national interests and the influence and apparatus of government are brought to the aid of the national producer in his struggle at home and abroad against the foreigner. It can safely be asserted that the efforts of groups of producers of the same commodity in different countries to eliminate the bleaker winds of competition by means of international industrial agreements have not as yet advanced far enough to reduce substantially the rigor of the conflict or to lessen its danger to the general welfare and peace of the world.

The edifice of social policy in the first group of countries, in view of the indefinite time-lag between the growth of industrialization and the appearance of a movement strong enough to carry through a program of social legislation in the second group of countries, is threatened by a danger which has increased rather than diminished since the first International Labor Conference of Washington in 1919. The realization of this cannot but affect any decision upon the choice of the direction of policy.

*Group 3.* It is not proposed here to comment on the changes which the principle of a planned economy has introduced in the U.S.S.R. But it is difficult either politically or economically to conceive of a Russia permanently isolated from the rest of the world. Whatever the eventual outcome of the experiments which are now taking place in that country, it is equally difficult to foresee a time when the Russian people, impregnated systematically from the cradle to the grave with the doctrine of Communism, will accept a return to a social and economic system based primarily on pri-

[4] The only exception, which is theoretical rather than practical, occurs when a country can offset any diminution of its foreign trade by extending the domestic market for its products without at the same time decreasing the average returns per head of population.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

vate capitalistic enterprise. Moreover, there are many indications that even the partial achievement of the program of economic development for the next ten years will place the U.S.S.R. in a position materially to influence the direction of international trade and indirectly, if not directly, the economic lot of at least a part of the world. The basis of the relations of the U.S.S.R. with the rest of the world, therefore, cannot be passed over without consideration in the determination of a final decision.

This analysis, therefore, if it is correct, tends to show that the interaction of external changes threatens to snap the fragile strands of the alliance in economically-developed countries which has produced social policy, and to end the truce between the exponents of two diametrically opposed social philosophies. The effects of such a rupture, if it is allowed to occur, are incalculable. In place of what has come to be regarded by the beneficiaries as a right due to them as part of a system of distributive justice, the workers and a steadily growing section of the community will be offered as a favor those amenities which can be afforded out of the fluctuating income yielded by the returns of capitalistic economic enterprise. The result might well be a complete reversal of the process of advance toward the ideal of social democracy.

But the rupture is inevitable unless it is possible by means of international economic coöperation to restore order where there is now financial and economic chaos and to lay the foundations for a more secure and more adequate economic system for the world as a whole. The foundations for the same building cannot, however, be constructed on two irreconcilable principles. It has been due very largely to this attempt to undo with the left hand what the right hand has begun to tie that thus far international economic coöperation has failed. The time has now come when the governments of the world must decide between an economic system based primarily upon the international recognition of certain fundamental principles of distributive justice and a flexible and self-adjusting economy operated mainly by private enterprise.

However clear the necessity for a choice may be, the forces by which the governments may be influenced in making that choice are incredibly complex and diverse. The problem itself involves economic, political, and even ethical considerations. But of a far more practical and inescapable character are the representations of the diverse interests and schools of thought which claim to be heard and taken into account in the determination of policy. At

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the outset, it is necessary to distinguish between (a) those forces which are the product of the present internal social and economic structure of any organized community and (b) those considerations which arise from the existence of separate nationally-organized communities, often with divergent aims and principles. The connection between the two groups will be referred to later, but it is convenient at this stage to consider each separately.

(1) Capitalist economy has encouraged the appearance of vocational interests which tend to solidify as development proceeds and to identify themselves with a peculiar set of principles and aims. In the first place, the producing interests hitherto in the post-war period have been able to exercise a dominant influence over governments, partly by reason of their direct political influence, partly indirectly through the preoccupation of post-war governments with the maximization of the productive capacity of the national economy. The group as a whole is concerned primarily with increasing in some cases and maintaining in others the margin of comparative costs to its advantage and to the discomfiture of foreign producers. They are, then, interested both in reducing, or at least preventing the increase of, costs of production and, in so far as these measures fail to bring about the necessary readjustments for successful competition, in securing measures of artificial aid by tariffs, restrictions, subsidies, and similar means from the government. Producers are, therefore, as a group averse to policies which tend to add further charges to their overhead costs or to increase the weight of national or local taxation, and in favor of any proposals which will increase the variability of the factors of production.

A second group is formed by the banking fraternity. The attitude of a central bank is primarily dictated by its position as the guardian of the national currency against internal and external dangers. Above all, it is determined to avoid the evils of currency inflation and exchange depreciation. This object, in accordance with the principles of orthodox finance, can best be served by the assurance of budgetary equilibrium and the maintenance of a reasonably equilibrated balance of payments. A central bank, therefore, tends to be opposed to any policy which may increase the expenditure of the central government without creating for use *in the same budget* a corresponding increase of revenue, and to the continuance of any policy which may prevent the achievement of budgetary equilibrium. Further, it will tend to discourage

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

a monetary policy which by disturbing the existing ratio of commodities and services to the means of payment may substantially alter the price-level. On the other hand, it is the obvious interest of central banks throughout the world to secure the acceptance of an international monetary standard which can effectively assure exchange stability and, if possible, stability of the general price level of the world as a whole. Clearly, however, at any given moment, agreement between the central banks of different countries upon the conditions of their acceptance of such a standard will differ with the varying economic and financial positions of the countries involved. Finally, the tradition weighs particularly heavily with the central banks the representatives of which for the most part have hitherto appeared to favor as speedy a restoration as possible of a mainly self-adjusting economy.

The attitude of the commercial banks varies very greatly, not only from country to country, but within the same country, according to the character of the principal interests and functions of the bank. In so far as it seems possible to detect any measure of general agreement, they may be said to favor any measures for the stimulation of new enterprise (credits and loans) and of domestic and international commerce (discount business) which will not threaten the security of the currency or increase taxation.

Thirdly, a large, but in most countries inchoate, group of distributors comprising wholesale and retail traders, middlemen of all types, shipping and other private transport services, and including the allied business of insurance, is interested, above all, in the maximization of purchasing power and of the volume both in value and quantity of trade. It is perhaps significant that very little attention in most countries has as yet been paid to the attitude and interests of this group, which stands in an intermediate position between the producing and the working-class interests. While opposed to an unduly high level of taxation, the distributing group would appear to be conscious of the threat to the maintenance of purchasing power both of a curtailment of social policy and of a too rigid insistence upon budgetary equilibrium when times are bad. Stability bought at the price of purchasing power may on occasion result in crustation and a situation in which stocks will not be liquidated or freights chartered. They therefore tend to favor policies which, first, will consolidate as large a block of purchasing power as possible and encourage in addition the freest possible international exchange of goods and services, and which, secondly,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

will not only discourage the growth of monopoly conditions of supply but increase the size of the turnover.

Fourthly, the industrial and agricultural wage-earners are preoccupied, first, with assuring to themselves command over the necessities of life (the means of subsistence) and, secondly, with attaining by successive advances the ultimate goal of equality of opportunity within the community. The division of opinion within the working-class movement upon the means whereby these ends may be attained need merely be noted for the purposes of this paper. We are concerned only with the section of opinion which recognizes the possibility and the necessity of using the machinery of international economic coöperation for these ends. The attitude of this section derives its inspiration from a social philosophy which insists upon the recognition of a series of natural rights to be enjoyed by the individual and upon the ultimate realization of social equality. These tendencies, despite occasional setbacks, have spread steadily, encouraged by the measure of success already achieved, and by the intellectual and moral stimulus of compulsory education. Organized labor, therefore, supports any proposals which may reinforce these guarantees and opposes any measure which threatens to weaken or destroy them. The emphasis is thus laid upon security and rigidity. Experience of the effects of a mainly self-adjusting economic system, moreover, in the general political and economic environment of the post-war period has very largely destroyed confidence in the restoration of freedom of international trade as a basis for economic life in face of the great disparity of social standards in different parts of the world. In not a few countries, the reaction has taken the form of support for measures of national protection.

Finally, consuming interests, which of course may be voiced in one connection by those who have diametrically opposed interests in another, as, for example, the producers of final-process goods, are concerned, first, with assuring regularity of supply of the necessities of life or of production under relatively stable price-conditions, secondly, with the existence of a wide margin of choice of commodities other than the necessities, and, thirdly, with the maintenance of a reasonably stable internal and world price-level. The diversity of forms which consuming interests may take renders it peculiarly difficult to generalize about the attitude struck by consumers as a group in the consideration of problems of economic policy. Salaried or wage-earning consumers—indeed all with

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

incomes which are not directly dependent upon the earning of profit—tend to support any proposals which will increase the purchasing power of their incomes or at least maintain it, sometimes even at the expense of a sacrifice of part of a protected productive enterprise. An increasing number of consumers, however, have come to realize the value of stability and regularity of supply rather than of cheapness as factors which tend to keep the economic system as a whole on an even keel. In short, the preoccupation of the individual with the necessity of ensuring his own economic security has brought him face to face with the paradox that cheapness in a competitive world whose productive capacity in the course of a generation has rapidly expanded may turn out to be in a very short space of time the most costly burden. Thus in his Odyssey for economic security he is led to toy with the conception of a series of guaranteed rights.

This very rough and ready analysis is designed to give some notion of the cross-current of interests which tug the representatives of governments now in this direction, now in that. It is well to remember, however, that the spokesman of a central government has also an interest, economic in form, to defend—the attainment of budgetary equilibrium at a level which will permit the fulfilment of the greatest number of electoral promises without an increase of direct taxation. While keeping this object always in view, a government is confronted with the exacting task of effecting a compromise between these various and divergent interests which will, in its opinion, be approved not only by its immediate political supporters, but by as many different groups within the community as possible.

(2) The accomplishment of this task is rendered less difficult—some would say avoided altogether—by an appeal to certain general political considerations which arise from the conception of the nation-state as an entity distinguishable from other nation-states. As the commonly accepted focal-point of social obligation, a central government assumes the duty of doing its best to serve those ends for the attainment of which the community itself continues to exist. It is concerned above all with the defense of its nationals or subjects against foreign aggression, and with the conservation of the national way of living or culture. The weight of the influence of considerations of national defense brought to bear in the discussion of international economic policy in each country will vary according to its peculiar political, geographical, and

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

social position. A Danish government will tend to attach far less importance to it than a French one. Moreover, the objects of such considerations may themselves vary—one government may be obsessed by the need for assuring the necessities required for waging defensive war, another by the task of providing that the necessities of life shall be available for its nationals when other states may be at war. Considerations of national security may combine with views on the appropriate form to be given to social development to create a further political criterion—the desirability of a balanced economy in which agriculture, industry, commerce, and if possible maritime enterprise, find their due place. Similarly, racial, and in a few countries religious, doctrines or popular prejudices, such as an aversion to monopoly, may be summoned to aid a government in determining its attitude toward any given set of proposals for international economic coöperation.

What, however, is likely to be the general tendency of the synthetic attitude finally adopted by governments? Subject to the many qualifications which have been either expressed or implied above, it would seem that a government almost invariably so far has been led to reject any proposals which definitely involve a curtailment of the volume or the range of its productive capacity, partly on the grounds of national defense, partly in the interest of maintaining existing social standards. So long as general confidence in the machinery of collective security is wanting, there seems little probability of a change of attitude.

On the other hand, the governments of creditor countries which possess any share in international trade are obviously anxious to encourage a return to freer trade within the limits imposed by the above-mentioned condition. Under existing conditions, it is doubtful whether more than a very slight increase of international trade could take place as a result of agreements concluded on this basis. It is now coming to be realized that the product of international economic coöperation conducted on these premises is very far from affording those guarantees of the means of subsistence and of economic security for which the vast majority of the peoples of the world are consciously or unconsciously striving. For the existence of a series of competitive and uncoördinated national protectionist economies has not prevented the spread of unemployment and the whittling down of those social standards for the protection of which, in part at least, the policy of the national conservation of productive capacity was advocated. By the failure of governments,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

therefore, to strike out consistently along either one or other of the two highways, the world's economic and financial system has been allowed to drift backwards and forwards along the paths of least resistance until suddenly it finds itself at the very brink of a bottomless pit of international economic warfare and of universal distress. If disaster is to be avoided and world economy set upon firm ground, the reins must be gripped firmly and the two chariots of international economic coöperation driven together, either along the highway which leads through control to the recognition of a system of social guarantees or along the road which sets out to attain through the operation of a free and self-adjusting economy the maximization of aggregate welfare.

The decision which it is suggested must be taken, and taken soon, therefore, concerns not economic means but social ends, and strikes down to the very foundations of organized society. In view of the tendency of many of the factors to which allusion was made above, it seems doubtful whether governments and the forces which influence their action would be prepared to renounce legislative or administrative control over the conditions in which the processes of economic enterprise are conducted. On the contrary, the orientation of policy would appear to be toward the striking of a new balance between the forces of individualism and collectivism more to the advantage of the latter, a balance which could be justified only by the acceptance of principles of social justice, both as shown by the practice of the most advanced countries of Northern and Western Europe, and as determined on the basis of medical standards. In this event, the international enunciation of a few fundamental principles to which economic conduct should tend to conform would appear to be necessary. A model might well be found in some of the general conventions concerning different branches of communications and transit, which have recognized the existence of, or give rise to, certain rights to be enjoyed by the individuals and groups of all contracting parties without discrimination. Indeed, part of the foundations have already been laid in the thirty-three conventions and numerous recommendations of the International Labor Organization. Institutional changes introducing a more clearly defined and rational division of functions among the three existing organs for international economic coöperation, and ensuring a generally coördinated activity, would seem to be one of the first conditions of genuine progress.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

# SOVEREIGNTY AND SOCIAL DYNAMICS

DOUGLAS W. CAMPBELL
*Princeton University*

## I

The ceaseless struggle of opposing ideas is the historical *continuum* of political theory. However concrete the situation which launches a particular conflict, all too often the struggle of ideas continues long after the objective scene of the conflict has moved on to quite different fields, long after new problems have outmoded old solutions, and long after new ways of thinking should have revised or displaced old concepts. This intellectual problem of continuity of ideas and of modes of thought is, of course, no more than the reflection of the larger issue of the liberation of human society from the "dead hand of the past." The solution of this problem is no easy one, entailing as it does careful discrimination and emphasis upon the quality of "deadness," but many reasoned attempts are being made toward this end.

The forms which these attempts are taking in the field of political theory (including the concept of sovereignty, which is the subject of this paper) and of political science in general are several. We have had an increasing, and productive, "realistic presentation of the facts of the governmental process" which has served to deflate such overweening concepts as that of sovereignty. We have had certain political doctrines relegated—or elevated—to the category of "myths," although the immediate effect of this classification upon the potency of the doctrines themselves has not been notable. There has also been an effort to meet the situation by minimizing or eliminating political theory as a part of the field of political science. This latter effort has taken a variety of forms, such as the purely juristic approach to the study of political organization, or the increasing emphasis upon "scientific method" and the "scientific" aspects of the subject. In some cases, it appears in the form of the denial of the existence or the importance of political theories except for students of history, and the denial of their efficacy under any circumstances—although this approach seems to leave unanalyzed the objective facts of human conduct and motivation; nor does it consider adequately the dynamic rela-



LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

tion of intellectual analysis of a problem to intelligent efforts towards its solution.

This search for "objectivity" in all fields of knowledge is one of the significant signs of the times, and upon the degree of its success much hope depends. Therefore it is doubly imperative that the true nature and function of this objectivity be understood. From some quarters we are told that because the essential character of a science is its method, any subject of study can be rendered scientific by the application of the "scientific method." Concerning this, two points need to be stressed. In the first place, application of the scientific method must not be sheer importation. The normal relation of method to subject-matter is that the latter, plus the mind of man, produces, conditions, and makes use of the former; the progress of the natural sciences is due to the combination of the nature of their substance with the objective intelligence and method of the human manipulators, but it is not due to forcing upon subject-matter a method unsuited to it. Secondly, and even more fundamental to our present purpose, it is sometimes overlooked that if there is a *single* scientific method, it cannot be defined in terms of any particular system of procedure or measurement.[1]

Concerning the application of the scientific method to social studies, the point to be stressed is that we have reason to believe that the social sciences not only should, but can, play a greater rôle in the organization of society by becoming thoroughly modernized in method and objectives, i.e., by becoming scientific; but, on the other hand, no amount of arbitrary and forced procedure can substitute for the flexibility of the scientifically trained mind in classifying problems and devising methods for working with them.[2] In the retraction of the social sciences from a metaphysical sub-

[1] One need only mention the variations in scientific method shown in routine laboratory tests, in research, and in the relation of the minds of such men as Eddington and Einstein to their scientific work. In the application of the scientific method to social studies, we have an analogous situation—a similar gradation from a routine process, which utilizes dominantly a more or less complete and mechanical method, to that which is forced to depend to a large extent upon the apparatus and method of a scientifically trained mind.

[2] An incidental benefit that might be expected from this broad and more accurate definition of "scientific method," not narrowed to a particular process or to a particular subject, might be a more general realization that many a physical scientist is a scientist "in but a fraction of himself," and is thoroughly unscientific in his social attitudes.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

jectivity to a scientific objectivity, great care needs to be taken to avoid adopting a limited and pseudo-scientific attitude and method—a kind of scientific monasticism in which external events that seem to question or contradict basic assumptions, methods, or conclusions are carefully excluded from affecting the quiet serenity of the atmosphere.[3]

II

It is with the concept of sovereignty, imbedded within the matrix of the problem analyzed above, that this paper concerns itself. Some efforts have been made to exorcise political science, pure and applied, of this perennial source of difficulty. But even in this fast dimming twilight of the age of reason, the sacrifice of a scapegoat does not for many or for long prove a satisfactory way of absolving society from political sin; and a great deal of energy has been turned to the more productive enterprise of re-analysis and re-interpretation of this fundamental concept—in reasoned endeavors to give it the scientific description which will put it and keep it in its proper place. Much has been done by way of progressive delimitation and more accurate and more concise definition, but more is yet to be done. The fundamental problem is disclosed in the words of a recent contributor to this purpose: "The real problem has never been, historically, the question of the nature of sovereignty; it has been the question of the shifting of the location of such authority as actually was being exercised."[4] The crux of the problem lies, therefore, in the definition of the concept of sovereignty in terms of all of its component factors—a harmonious relating of all of them rather than launching a fratricidal war among them. Such a definition should eliminate the exclusive legal emphasis of a John Dickinson, and at the same time avoid the dilemma of a Laski, who considers an attack upon one phase of sovereignty to be a rejection of the concept *in toto*.[5] The facts which make

[3] An excellent example of the problem of objectivity in the field of social studies and functions is to be found in the discussion and controversy over the nature of the judicial process. The principle involved in this effort is contained in a statement by Justice Holmes: "What proximate test of excellence can be found except correspondence to the actual equilibrium of forces in the community—that is, conformity to the wishes of the dominant power? . . . Hence, the true science of law consists in the establishment of its postulates from within upon accurately measured social desires." *Collected Legal Papers*, pp. 224–226.

[4] P. W. Ward, *Sovereignty* (London, 1928), p. 169.

[5] The dilemma and untenability of Laski's position is seen in his *Grammar of*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

sovereignty not an invention but a concept inherent in political organization have been well stated and discussed by Professor Dickinson.[6] He points out that "sovereignty in the legal sense" is "nothing more nor less than a logical postulate or presupposition of any system of order according to law."[7] He admits the possibility of a breakdown in the legal order, but poses clearly the two fundamental questions: first, is a given theorist denying legal order as such or is he attacking abuses under a particular legal order; and secondly, what are the consequences of these two alternatives, and what are the consequences desired?

In this summing up, Dickinson provides the key to the whole problem of scientific method, its limitations and its possibilities, in the social sciences. The first essential in proceeding is to know exactly what is involved, from the point of view of facts and purpose; the second essential—in choosing between alternatives—what are the probable and possible consequences of each, both immediate and more remote.[8] From this point of view, the concept of sovereignty can be made a "scientific" concept; and at the same time, the concept is kept rooted in the realm of human motives, conduct, and value judgments. An adequate political concept or political science cannot limit itself to the sole function of indicating whether or not a legal order exists.[9]

*Politics* (London, 1925), in which he attacks the theory of sovereignty as though to banish it permanently, only to find it necessary to re-introduce the concept as a part of his positive political system.

[6] An article by Professor Dickinson ("A Working Theory of Sovereignty," *Political Science Quarterly*, Dec., 1927, and Mar., 1928) is a juristic interpretation taken as the primary basis and point of departure for the present one, since it seems to the writer to represent one of the clearest, most scientific, and most concise discussions of the present problem of sovereignty; and it shows clearly where the analysis of the concept was stopped. The problem could be approached equally well by a similar use of such a view as that of Laski. Our analysis and the concept arrived at would be the same in both cases, although the points of view of these two men are fundamentally opposites. These two approaches to the subject are mentioned only as representative of the recent discussions of the problem of sovereignty, and they do not exhaust the specific points of view to be found in these discussions. Other names might be added, such as those of Duguit and MacIver. The present author owes much stimulation to the point of view presented in MacIver's *The Modern State*, although he does not find the treatment of sovereignty adequate.

[7] Dickinson, in *Political Science Quarterly*, Dec., 1927, p. 525.

[8] As is clear, the remote consequences in most cases cannot be dealt with in or by one narrow field of the social sciences, and hence the social sciences can never deal adequately with their problems so long as there is so much narrow specialization and provincialism within the field.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

III

The particular aspect of the concept of sovereignty with which we are concerned here is that of the relation of its juristic phase to the dynamic political and social forces which operate upon it and upon which it operates. Sovereignty is not a purely juristic concept, and the effort to make it such is precisely the source of much of the difficulty and controversy. It is the juristic "unlimitedness" and "absoluteness" which has led absolutists to find it useful because of the facts which were overlooked, and which has led anti-absolutists to find it diabolical because of these same neglected or minimized facts. Every definition of sovereignty in purely juristic terms over-emphasizes one essential element of the concept which is already by its nature static and conservative; and it disregards another essential factor which contributes the dynamic element. The exact point of equilibrium at which these factors come to rest varies with circumstances, and is indicative and descriptive of the kind of political regulation which is being exercised over a given society at a given time. Too often the discussion relates to which factor should determine the definition of the concept. The problem which should command attention is the existing point of equilibrium and whether it is stable or unstable, desirable or undesirable, and what steps should be and could be taken to maintain or remedy the existing situation.

The juristic phase of the concept of sovereignty, as has been said, is its static side, as the institutionalizing of any principle becomes the skeleton of that principle and puts its capacity for action within certain limits. Also, not only is the juristic element the skeletal form of sovereignty, but it organizes and symbolizes in society the elemental cry for security—through which patriotism, love of country, and national honor are brought to bear upon human motives and conduct at the expense of less elemental appurtenances of human life, such as tolerance, sympathy, and respect for one's neighbors; and because of which the growing-pains of social reconstruction are met by the call of "back to law and order." The

[9] It is true that social relations elude or escape both classification and control because of their complexity and because of their basis in individual and social psychology. But unless our social scientists are ready to carry scientific study and the scientific method as far as it will go and stop there until it is possible to go further, it is futile to hope for as much social advance as is objectively possible; and it is equally futile to expect much of the scientific and rational analysis of alternatives from the man in the street.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

World War and its reconstruction period have multiplied the evidence attesting the truth of the statement that "the idea of law and order, when it is aroused, is one of the cruellest things in history." It is perhaps especially imperative that sovereignty be not given an exclusively juristic interpretation in the United States. This is so, because it is just the sociological basis of such legalism which makes us as a people have both the greatest faith in and the greatest ignorance of law as an instrument of social regulation—one of the most lawless social groups with the most unscientific faith in legalistic enactments.

Thus, the effort to simplify the problems of political science by a purely juristic approach serves to simplify only the concepts, while by the same stroke it complicates the problems. As was discussed above, there is a tendency among some social scientists to equate movement with "pure speculation," political dynamics with political metaphysics, so that they utilize an approach and a method which stop movement as a blow at speculation, and which become scientific by an attempt to force a dynamic situation into a static concept.

The relation of the static to the dynamic, of the juristic to the political, aspect of sovereignty has been discussed for nearly half a century under such dichotomies as *de jure* and *de facto* sovereignty, "legal sovereignty" and "political forces," and lately increasingly under that of "legal" and "political" sovereignty. This distinction between legal sovereignty and political forces is only an elaboration of what Austin himself declared to be the case; and it must be stated that it has in part resulted in bringing bodily into general political theory and political science a definition which Austin drew from the field of jurisprudence and applied in that field. It is amazing to find, through all the changes of historical circumstance, social purpose, and intellectual method, a fundamental continuity in the theory of sovereignty from Bodin, Hobbes, and Austin to the twentieth century. The thread of this continuity is the juristic definition in each case—and as has been pointed out, this is the nucleus around which the concept forms, as well as the steel framework for society which in cases of social fire and destruction often towers above the charred ruins. But for the twentieth century to mistake the thread of continuity for complete continuity and to be more juristic than Austin himself is to invite the social chaos and the political anti-intellectualism and retro-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

gression which is appearing on many sides. A concept of sovereignty which embodies a dynamic relationship and a point of equilibrium between its component factors cannot guarantee that the equilibrium reached will be a desirable one—but it gives an objective description of the concept as such and a chance to study existing circumstances, possibilities, and alternatives, rather than emphasizing either the conservative or the progressive element to the exclusion of the other. The present period is one in which overemphasis upon conserving may block, perhaps is blocking, that degree of progressiveness which it is necessary to conserve.

The division of sovereignty into "legal" and "political" has never proved very satisfactory. To the sociological and the reformist mind, it has appeared dangerous to admit anything of the juristic fiction which has played into the hands of conservatives and absolutists; some of them have preferred a qualified allegiance to some kind of "contingent anarchy" rather than risk the consuming unity of sovereignty. While to the juristic mind it has seemed illogical and unnecessary to include such a vague notion as "political forces lying behind legal sovereignty" as a part of the concept; especially as they realized that legal unity is of the essence of sovereignty. Professor Dickinson gives political sovereignty itself a legalistic definition[10] and then quotes approvingly a statement of Willoughby that "it seems unfortunate that the same term, 'sovereignty,' should be applied to two forces so radically different, even though distinguishing adjectives be prefixed."[11] He is aware of the political context in which the legal system operates, but he prefers to retain sovereignty in its purely juristic definition. "History and experience suggest . . . ," he says, "that we are greatly in need of a word to designate the definite organ or funnel through which the forces of fact, motive, power, desire, transmute themselves from ineffective formlessness into the form of the specific rules which we wish to distinguish from other kinds of rules by

[10] His definition: "Political sovereignty has reference to the forces, or rather to *some of the forces*, which operate on the juristic sovereign . . ." His point seems to depend upon an extremely narrow definition of "political"; for he follows the above-quoted sentence thus: "For after all, the *political motive, i.e., the fear of not being reëlected*, is but one of a number of factors which may and probably will influence the minds which compose the sovereign organ when they set about to define the law." (No italics in the original.) Dickinson, *op. cit.*, p. 533.

[11] *Op. cit.*, p. 532, footnote. It is interesting to note that the qualifying adjectives themselves have introduced the civil war which has beset the concept.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

calling them rules of law."[12] This is true, but history and experience also suggest that if we define sovereignty solely in terms of the mechanics of its function, then there will always be those, such as Laski, who find it necessary to retaliate by defining it solely in terms of the source of and limits upon its power to fulfil that function. Neither side sees that it is *power* of a certain kind which drives, through *mechanics*, and that therefore these two elements compose the fact and the concept of sovereignty.

IV

The central problem of political organization is the organization, for certain purposes, of diversity. This organization postulates a limited unity, but not the complete, organic unity of the "general will" of Rousseau. The extent to which this limited unity does become social and organic unity varies with circumstances, as do the methods by which unity is achieved and maintained—but without that minimum of unity which we call "legal," nothing further could be attained. The concept of sovereignty, as the central concept of political organization, must accurately and adequately reflect this problem entire, and not merely some phase of it. Therefore we can define sovereignty as follows: "Sovereignty is that power within a social unit which decides between the rules and regulations which the organization, and force, of the social unit as a unit will sponsor and those it will not sponsor—that is, which both organizes a social unit into a working political unit and denotes that it is a working political unit." Consequently, the place at which the line is drawn is a variable, and determined by circumstances, while the fact that a line is drawn is a constant, and determined by the nature of political organization as such. Sovereignty does not *cause* political organization; it is merely a concept which describes its essence.

A brief analysis of the factors of sovereignty, contained in the above definition, will make more clear its nature. The basic factor is that "power which decides" denotes that there exists a system in which power is present and decisions are made. Power is the capacity to act. This capacity is not limited to government officials. The capacity of political officials to act is conditioned by the political organization in which they are functionaries—the constitution, the nature of the governmental system, the party system,

[12] Dickinson, *op. cit.*, p. 533.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the extent of the suffrage. Also, there is a capacity in those not in the governmental system to act so as to set limits upon the capacity of officials in conducting the political system. And this capacity of those not in the governmental system depends in turn upon the limits put upon their individual actions by the economic system, the social system, and the political system.[13]

Consequently, the power of political officials to act is a derived one. It flows from two sources: the political source of their office and the power inherent in that office. This derived power is for a specific function, to make decisions (and see them executed) concerning the conduct of the politically organized community. Their function is immediate, not derived, in the sense that it is inherent in their office and in political organization. Therefore, this function, this type of decision, is limited to political organization. No other type of organization can exercise it. But the power of making specific decisions, of exercising this abstract capacity to act in a particular way in a concrete instance, is limited more or less definitely, depending upon the circumstances.[14]

Sovereignty has been conceived in the past as *unlimited in power* rather than *unique in function*. (And it is important to note that this uniqueness serves only to monopolize this one form of social regulation, not all social regulation). That power works, and that it is a conditioned working, is the essence of sovereignty. It is politically and psychologically absurd to say that a "sovereign body" has the power to act in a way in which its members, individually and collectively, cannot act. Whether social conditioning will ever be combined with any considerable degree of social intelligence is another and a moot question. Also, it is possible that social scientists will learn one day that any extensive social planning must fall under that category of fundamental limitations upon organized political authority; at least, it seems probable that we will learn that some things are possible, some are best done in one way and others by a different procedure, and some are impossible or undesirable for the politically organized community as

[13] The latter factor, the political system, needs special mention because even without the limitations resulting from the social and economic system, the very fact that some people are and some are not officials in the mechanics of the political system itself gives political functionaries a superior position.

[14] It is hardly necessary to enumerate the myriad of conditioning factors—the underlying "social climate," the clash of interests, such as big business, the war veterans, the farmers, etc.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

such. To contribute toward clearing the way for a maximum use of the possibilities of dealing with the complicated social problems of this age, social scientists may well start by formulating a clear view of the field, the problem, and the method.

There remains to be considered one further factor in the matter of "decision." Decision denotes not only the abstract purpose for which the power to decide in concrete cases exists, but it signifies also *organization*. If decisions are to be made and executed for a social unit, it cannot but work through a form of organization. Therefore, sovereignty is really juristic in part—power unorganized, capacity to act unorganized, could not be conducted over and in the name of the social unit—would not, therefore, be sovereignty. This factor is one the consequences of which have been until recently overlooked, and it is not yet understood in its complete implications. One discovery of the modern state, particularly in the problem of the democratic state, which was slighted or neglected by earlier political theorists and political scientists is the effect of organization upon principle and the difficulty of institutionalizing principle.[15] "Who says organization, says oligarchy," declares one of the first students to call attention to this problem.[16] One illustration of the problem must suffice. A growing fear of the power of the civil service in England is based largely upon the realization of the position to which its function and the power necessary to and inherent in this function are bringing it. In 1929, a committee of Parliament was appointed to "report what safeguards are desirable or necessary to secure the constitutional principles of the sovereignty of Parliament and the supremacy of the law."[17] This is a phrase and indicates a situation which at one time would have aroused a furor in some quarters, and would have provided material for the oratory of politicians and the pen of political theorists in defending "sacred fundamental principles" and "fundamental rights of Englishmen" and in attacking "tyranny and corruption." But now there was no especial culprit and no scapegoat,

[15] For example, Rousseau ignored this factor; Bentham looked upon organization as mechanical and static and without effect upon principle other than that intended, and completely effective in that; and the movement toward written constitutions has combined the two errors.

[16] R. Michels, *Political Parties* (London, 1915), p. 418. The book is a discussion of "the sociology of political parties," and so concerns the very basis of democracy.

[17] *Report of the Committee on Ministers' Powers* (H. M. Stationery Office, London, 1932), p. 5.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

primarily only a circumstantial development by which the institutional expression of a principle was faulty, and even the principle in its abstract form was being questioned. It is clear, therefore, not only that sovereignty is in part juristic, but that its juristic element plays a rôle of both effect and cause relative to the operation of the power itself.

V

In conclusion, two points may be stressed as summing up the fundamental problem analyzed in this paper. In the first place, political concepts must be modernized, brought up to date. With the concept of sovereignty, as in the general field of political concepts (such as liberty, individualism, etc.), we are faced with the problem of saving what is good in our inherited concepts, but at the same time making them reflect what greater experience and greater understanding have taught us. We must face the problem heralded by Michels: "Organization is . . . the source from which the conservative currents flow over the plain of democracy, occasioning there disastrous floods and rendering the plain unrecognizable."[18] The issue, both in political theory and in political organization, is whether the principles resulting from a long process of social development must be thrown overboard as "metaphysical," or whether the essence of some of them can be retained and made effective through institutions. In many quarters, again both in political theory and in political organization, there is an impatient movement toward what looks to be, in part at least, intellectual, political, and social retrogression. From thinking that man can completely and rapidly mould his future to suit his desires, we threaten to swing full-circle to the idea that he must submit to the requirements of "natural processes," defined in terms of an authoritarian realism. Political thinking of the modern period has been fundamentally a conflict between metaphysical abstractions—on the one hand, the view which isolated the individual totally from his social environment and his social group; and in opposition to it, the view which emphasized a naturalistic, deterministic social organism, leaving the individual submerged and complete within the group. Neither view adequately reflects reality or the problems of present organized society; both suffer the limitations of the abstract method of the eighteenth and nineteenth cen-

[18] Michels, *op. cit.*, p. 26.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

turies—the "in so far as" method, by which "the political theorist studies men in so far as they show common purposes, the economist in so far as they follow separate purposes."[19]

Such abstractions, such erection of exclusive fences around different phases of man's activity—and consequently around each of the social sciences—have been discredited by experience, but still enjoy too honored a place in our modes of thought.[20] This is an age in which such abstractions are being thrown into the crucible for re-thinking, new syntheses are being demanded and in part achieved. The closer "meeting of extremes" is a tendency to be observed on all sides—between religion and science, metaphysics and physics, mind and matter, idealism and realism, subjectivity and objectivity. This is being done not by a neo-scholasticism, but by a process of scientific-philosophic analysis and study of the situation and problems of the present age. This "meeting of extremes" must take place as well between some extremes within the social sciences, such as "liberty" and "authority," "individual" and "society," "legal sovereignty" and "political sovereignty," principles and institutions; all must be scientifically rooted in the existing external situation and open to that organization which human society finds necessary and possible. The meeting of extremes, of "two forces so radically different," in the concept of sovereignty has been analyzed in the preceding discussion—in this "meeting" neither element has been eliminated, but the actual relation between these two component parts of a single concept is made clear, so that we have a working concept of sovereignty which fits the facts and gives all of them, singly and collectively, their proper part in a static-dynamic concept.

As has been stressed throughout, theory is not opposed to fact, but instrumental to the handling of a factual situation or problem. The purpose of modernizing the theory of sovereignty is to make it truly instrumental as the central concept of political organization. The above paragraph has summed up the theoretical side; it remains only to sum up the practical. This is an age of synthesis in

[19] It is this same type of division whereby the political functionary as a part of juristic sovereignty enjoys "unlimited power," but the same official as affected by political forces or political sovereignty is limited in his capacity to act.

[20] The point need not be labored that the necessary specialization into different fields is a fact quite different from the chauvinism which leads each to claim complete independence of the others.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

theory, of reconstruction in social fact and organization. It has become increasingly evident that the arbitrary division during the nineteenth century between "political" and "economic" does not meet modern facts or modern needs. Society is political in a real sense, a positive sense, and not excluding the economic functions.[21] One need only mention the fact that our present "individualism" is not socially productive, and therefore its fruits devour its progenitors; economically, we can produce economic goods sufficient for our population, but politically we have not the organization, the system of distribution, necessary to gear our economic system satisfactorily to its social function. It has been said that our age has demonstrated the supremacy of the economic function; it should be added that it has demonstrated also the woeful incapacity of society to fulfil its political function. The demand of the present situation is for some degree of social and economic planning, i.e., advance in the political capacity of social organization. It is for political scientists, social scientists, theoretical and practical, to survey the field in terms of the circumstances, the problems, the methods of our time. The nature of this step, so far as theory and intellectual approach are concerned, has been analyzed in a concept of sovereignty which we submit is a "working concept" in the real sense.

[21] It is of prime importance to note that a broader definition of "political" is based upon that social function of organization which is inherently "political." Actually, the narrow, nineteenth-century definition of "political" and "economic" has been long since abandoned, so far as our modern government is concerned, under pressure of new problems.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

# JEFFERSONIAN DEMOCRACY: A DUAL TRADITION

CHARLES M. WILTSE
*Ithaca, New York*

From the great mass of Jefferson's writings, letters, and public utterances, it is possible to select isolated fragments in justification of almost any course one chooses to pursue; and the history of his forty years in the service of his country offers almost as various a pattern. Taking his career and his writings as a whole, however, and piecing together from both the broad outlines of a political philosophy, one is struck by what appears to be a dual emphasis: two diverging streams of thought, which seem at first glance to be incompatible, and which have rendered the great democrat vulnerable to the charge of inconsistency so often repeated in his own day as in ours. One of these emphases, and that most apt to be quoted by campaign orators, is on individualism; but the direction and purpose of the other is socialistic.

Both in the abstract system of the philosopher and in the concrete events of the world of action, time has a way of reconciling apparent contradictions. Historical perspective will do much to reveal unsuspected unities, and the point of view from which the inquiry is approached will do the rest. On these we shall rely; but before examining the opposing tendencies in American democratic theory, and seeking to fuse them into a single whole, we must reconstruct briefly the outlines of the Jeffersonian state.

## I

The entire system rests on two basic assumptions, both of which are ethical: that the end of life is individual happiness, and that the purpose of the state is to secure and increase that happiness. Men are more important than institutions, and social good is to be reckoned in terms of human values. The ultimate end of government, like that of science, of art, of philosophy, is to further the material and spiritual well-being of men. From this it follows that government must be responsible to the people, and relative to their will, expressed by a majority of voices; for the state is the creation and the creature of those who live in it. It is an instrument for the better attainment of the individual ethical end, to be altered or abolished when its usefulness is over.



LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

sought later, to put the improvement program beyond question by constitutional amendment.[14]

III

From sophisticated New England, John Adams wrote ironically to Jefferson: "Your taste is judicious in liking better the dreams of the future than the history of the past."[15] But the shaft did not strike home. Jefferson built upon ideals, to be sure; but he built also upon facts—facts of which Adams was only vaguely aware. For Adams had never known, as Jefferson and Jackson and Lincoln knew, the American frontier and the men it bred. A governing aristocracy might be possible in the wealthy coastal cities, or among the alluvial plantations of the South; but beyond the rim of the mountains, where the wilderness lay still unconquered, there were no distinctions of class. There men were equal, and better, they were free, developing initiative and self-reliance in their westward march, and settling their differences among themselves without appealing to the courts. Jefferson was himself the product of the first west in American history. He loved the hardy independence of the pioneer, and sought to build something of the pioneer character into his philosophy of the state. Not wealth nor property nor class, but men form the basis of the political order: free men, in whom justice and fair-dealing are instinctive; who labor together for the common good of all, in scorn of selfish aims.

Perhaps the most fundamental criticism of democracy is that men are not like that. Jefferson preferred to believe, because of his own great love of freedom, that free men could not help but be just, sincere, and true. For him, the war of each against all is the abusive rather than the natural state of man—a product of civilization, which might still be eradicated by a wise and impartial government.[16] He could not doubt that men, however corrupt they might become, were fundamentally rational and moral; he could not doubt the ultimate rightness of life. Like the Greek, he identifies the good man with the good citizen; and like the Greek, he holds evil to be error. If men do ill, it is because they do not know the good. The remedy is to teach them, give them free access to information about their affairs, encourage them to discussion.

Democracy has often been refuted, but it has never been silenced.

[14] Channing, *History of the United States*, V, 6–7, 317.
[15] *Works of John Adams* (1856), X, 226.
[16] To Kercheval, July 12, 1816 (XV, 40).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

in 1816, he speaks of the law of "equal inheritance to all in equal degree" as a safeguard against the "overgrown wealth" of a few individuals;[9] and if, at seventy-three, he believes it sufficient in itself, it is presumably because he has found it so in practice, after forty years of its operation in Virginia. It is rather for a later generation, which has seen the steady increase of unemployment in the midst of plenty, to push the principle to its indicated end.

Add to this social-utilitarian theory of property Jefferson's conception of the functions of the state on its productive side, and it becomes obvious that the individualism of the Declaration gives no adequate measure of the man. The individualistic theory of property as held in eighteenth-century England regarded education also as a private enterprise; but in Jefferson's philosophy, both go overboard together. In a day when schools were still a luxury and education the privilege of the few, he proposed universal elementary training at the public expense, and went so far as to advocate in connection with his university a public dispensary where the poor could obtain competent medical service without charge.[10] He labored also for the establishment of public libraries,[11] for the abolition of postage on newspapers "to facilitate the progress of information,"[12] and for the improvement of knowledge and methods through a system of coöperative agricultural societies.[13]

It will be remembered, further, that the policy of internal improvements at government expense was inaugurated by Jefferson, and included a coast survey, river and harbor improvements, and the construction of roads and canals. At the suggestion of Gallatin, Ohio was admitted to the Union in 1802 with the provision that one-tenth of the net proceeds from the sale of lands within the state should be applied to the building of roads from the Atlantic seaboard to the Ohio valley; and in 1806 Congress appropriated $30,000 for the Cumberland pike, which was to be only a beginning. Public works, the benefit of which would be felt by large numbers of citizens, were within the scope of governmental activity as Jefferson conceived it, even though they might be of doubtful constitutionality; and he sought, as Madison and Monroe

[9] To Milligan, Apr. 6, 1816 (XIV, 464).

[10] See *Act for Establishing Elementary Schools*, XVII, 418 ff; and *Minutes of the Board of Visitors of the University of Virginia*, XIX, 413 ff.

[11] Randall, *Life of Jefferson*, III, 322.

[12] *Ibid.*, II, 681.

[13] XVII, 404 ff.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

portion of land. The small landholders are the most precious part of the state."[7]

We have here an organic conception of society in opposition to Locke's individualism. The state is a whole, of which the component individuals are parts, and the property rights conceded to each are conditional on their compatibility with the good of the whole. Such a view was not altogether unheard of in Jefferson's day. Before the middle of the eighteenth century. Francis Hutcheson, one of Adam Smith's predecessors in the chair of moral philosophy at Glasgow, had subjected the rights of property to a social limitation;[8] and Joseph Priestley, at the time Jefferson was writing, advanced the principle that the society has a right to use for the common good all property found or acquired within its territorial limits. Jefferson enjoyed the personal friendship of Priestley after the English chemist's removal to America in 1794, but it is hardly likely that he knew his theory earlier than that date. It is, however, reasonable to suppose that he had read Hutcheson's writings early enough to have been influenced by them, even though there is no evidence that he actually was so influenced. There is also a property limitation in Harrington's *Oceana*, which was well known to Jefferson; and the ancient Spartan division of land is detailed in Thucydides, one of his favorite writers. Whether Jefferson found the germ of his view in any one of these possible sources, or developed it independently, the doctrine itself is well in advance of his day—so far in advance that Adam Smith, in terms of it, is reactionary.

Nor is this theory of property the product of a momentary gleam of insight on Jefferson's part, to be put aside and forgotten when the circumstances evoking it had passed. The draft of the Virginia constitution and the bill to abolish entails date from 1776; but in 1807 he was still seeking to limit, on the authority of the state, the property rights of individuals for the social advantage of the whole. In the embargo of that year he laid down the principle of commercial regulation for the public good, which seems entirely consistent with his political philosophy as a whole; and his opposition to Hamilton's financial policy sprang from a deeply rooted fear of the growth of a capitalistic system, and the conviction that it lay within the power of the state to check that growth. Still later,

[7] XIX, 17–18 (Mem. ed.).

[8] *System of Moral Philosophy*, I, 319 ff. (1755).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

good. His draft of the Virginia constitution of 1776 provides for the distribution by the state of all unappropriated or forfeited lands, so that every person "of full age neither owning nor having owned fifty acres of land shall be entitled to an appropriation of fifty acres or to so much as shall make up what he owns or has owned fifty acres in full and absolute dominion. And no other person shall be capable of taking an appropriation."[5] The abolition of primogeniture is a means of breaking up large estates and providing against a class of disinherited younger sons; and Jefferson's bill to abolish entails was the first effective blow at the land-owning aristocracy of Virginia.[6] But in a letter addressed to the Rev. James Madison, rector of William and Mary College, in 1785, he clearly implies that the power of the state to interfere with private property should go even farther than this.

"I am conscious," he writes, "that an equal distribution of property is impracticable, but the consequences of this enormous inequality producing so much misery to the bulk of mankind, legislators cannot invent too many devices for subdividing property only taking care to let their subdivisions go hand in hand with the natural affections of the human mind. The descent of property of every kind therefore to all the children, or to all the brothers and sisters, or other relations in equal degree, is a politic measure and a practicable one. Another means of silently lessening the inequality of property is to exempt all from taxation below a certain point, and to tax the higher portions of property in geometrical progression as they rise. Whenever there are in any country uncultivated lands and unemployed poor, it is clear that the laws of property have been so far extended as to violate natural right. The earth is given as a common stock for man to labor and live on. If for the encouragement of industry we allow it to be appropriated, we must take care that other employment be provided for those excluded from the appropriation. If we do not, the fundamental right to labor the earth returns to the unemployed. It is too soon yet in our country to say that every man who cannot find employment, but who can find uncultivated land, shall be at liberty to cultivate it, paying a moderate rent. But it is not too soon to provide by every possible means that as few as possible shall be without a little

[5] II, 25 (ed. by Ford).
[6] *Ibid.*, 104 ff.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

this negative attitude, as we shall see, and concerns itself also with its just distribution and use.

II

It is in his theory of property that Jefferson leans most decidedly toward the social side of democracy; and it is here that he departs most radically from Locke and the English Whig tradition. The word does not occur in the preamble to the Declaration of Independence, and property is nowhere listed as among the "rights of man." Rather, it is definitely excluded; for when Lafayette submitted to Jefferson his *Déclaration des droits de l'homme*, the latter struck out the words *droit à la propriété*.[3] Property is of paramount importance to society, and its preservation is one of the principal objects of government, just as it is one of the primary reasons for entering into a social compact. But "preservation of property" does not imply preservation of inequality in the distribution of property. Just as Jefferson went beyond Locke's theory of rights, he goes beyond his theory of property—and beyond that of Adam Smith, too.

Locke had declared that the "supreme power cannot take from any man any part of his property without his own consent,"[4] a dictum typical of the eighteenth-century attitude, and one which was already a commonplace by the time Locke gave it caste. It means that the law of the economic world is the survival of the fittest; or, in the more classic formulation of Adam Smith, that the individual best promotes the interest of society by following his own interest. The sphere of the state does not extend into the economic realm in which its citizens live and move and have their being. The result of the system, as Karl Marx was in due course to point out, is the concentration of property in the hands of a small and ever-diminishing group, while the great mass of the people are being progressively dispossessed. It is then inevitable that the group possessing economic power will tend to dominate the councils of state to the exclusion of those who are without resources.

That Jefferson saw these results clearly may well be doubted; but he had at least followed the general line of reasoning far enough to be convinced that the power of the state must be used to eliminate at least the more extreme inequalities in property for the social

[3] Chinard, *Thomas Jefferson*, 84.
[4] *Of Civil Government*, II, 138.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

government springs from a common interest in public affairs.

The larger the state, the more remote is the individual from the actual governing power; and there is consequently increasing danger that he will come to regard himself as impotent so far as the affairs of the nation are concerned, and lose interest in them. This danger Jefferson proposes to avoid by organizing the state into an hierarchy of self-governing units.[2] The centralized federal republic is subdivided into states, each with its own executive, legislative, and judicial organs; the state is made up of counties with their own courts and administrative machinery; and the county itself he would reduce to wards or townships, of an area of some five or six square miles. In the ward, each citizen is an active member of the commonwealth, meeting in common council to carry on the business of the community. Thus each man has a personal interest in the actual conduct of affairs, either in his own ward or in one of the higher units of the scale; and at the same time, the more minute details of administration, such as local roads and schools, are placed directly under the supervision of those most concerned.

Jefferson believes, too, that this arrangement will enable the functions of government to be carried on more effectively all along the line. These functions are broadly divided into productive and repressive, the latter being necessary to the preservation of order, and extending to police power and national defense—the protection of the individual or the group from internal or external infringement of guaranteed rights. Productive functions include the regulation or encouragement of agriculture, commerce and industry, public works, education, and in general all that the twentieth century knows as social legislation. Of these, Jefferson necessarily places education foremost; for if government rests upon the will of the individuals grouped under it, and if its end is the ultimate well-being and happiness of those individuals, it becomes a primary duty of the state to educate them, provide them with books and papers, and free them from censorship or control in intellectual matters. It follows also that for the welfare of the whole, the state may upon occasion be justified in restricting the activities of the individual by curtailing his commercial or industrial ventures, or by limiting his property rights. In so far as the state protects private property, it is a repressive function; but it goes beyond

[2] See letters to Adams, Oct. 28, 1813, in *Writings* (Memorial Edition), XIII, 400; to Cabell, Feb. 12, 1816, XIV, 422; to Kercheval, July 12, 1816, XV, 37–38.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

limits of area and population. The nearest approach to the ideal which can obtain in practice is representative democracy, which Jefferson calls the "republic." In it the functions of the state are carried on by individuals elected by the people for short terms. Sovereignty belongs properly to the people themselves, but when their numbers are too great to permit them to exercise it effectively, they delegate it to certain individuals or groups to exercise for them.

Following the beaten track of democratic theory, from Aristotle's mixed constitution down through Harrington, Montesquieu, and the *Federalist*, Jefferson divides these representatives of the people into three distinct branches: a legislature, consisting of two chambers, the one based on numerical and the other on sectional interests, whose duty it is to make laws and to raise money for carrying them into effect; an executive, preferably an individual, who is responsible for the administration of the law; and a judicial organ to judge and punish infractions of it, and to settle disputes between citizens. These branches of the government are coördinate, and are responsible to the people; and their authority is specifically limited by the constitution, or contract whereby their offices have been created. The constitution also includes various devices for preventing one department from encroaching on the province of any other, and a bill of rights to restrain any department from interfering in the sphere of the individual.

The duty of the individual citizen, however, extends much farther than the mere election of representatives to carry on in his name the actual business of government. He must keep informed, through the press, books, the schools, on the issues of the day, the problems facing his representatives, the laws passed and their import. And he must exercise in person every function his qualifications will permit him to exercise. Government is equally the concern of all the men associated under it, and Jefferson would have declared as feelingly as Rousseau that "as soon as any man says of the affairs of the state *what does it matter to me?*, the state may be given up for lost."[1] Every man is a potential ruler, and should be always ready to assume public office if his fellow citizens place that trust at his disposal; and every man, in office or in private life, should do his part in formulating the will of the group. Good

[1] *Social Contract*, III, 15.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Nature, which has planted in man the instinctive drive to seek happiness and avoid misery and pain, has endowed him also with the means for achieving this goal. Certain things are necessary to a happy life: liberty, security in the possession of material goods, freedom from arbitrary coercion by others. These are natural rights, attaching in equal degree to all, and carrying with them a duty on the part of each individual to respect them in his fellows. Men come together in society because they are essentially gregarious, and are so formed that no one is sufficient unto himself. He can be happy only in the companionship of others. And since in every group, men will be found who will overstep their rights to the injury of someone else, some form of government must be erected having power to guarantee these rights by punishing those who transgress.

The social compact is a legal fiction, used to explain and to limit the power of the state; and its actual embodiment is the constitution, drawn up by representatives of the people, and sanctioned by the approval of the individuals who are to live under its rule. The constitution is in the form of a contract, to which the several members of the society subscribe, setting up organs for making and enforcing the law, and machinery for carrying forward the welfare of the group. It is the fundamental law, constituting the form of the society and preserving it against too rapid change, yet allowing at the same time ample room for growth. The particular type of machinery thus brought into being will be dependent on the type of people to be governed by it, on the resources and character of the country, and on the demands likely to be made upon it; and it will be alterable by those whom it governs whenever it becomes inadequate to its task.

But though there are many conceivable and practical forms of government, all soundly based states must, for Jefferson, follow broadly a general pattern. The best government is no government at all. Only in a community in which there is no political coercion of any kind can the individual enjoy complete freedom. But in all except the smallest and most congenial groups, anarchy means chaos, and in the end control by the stronger and more ruthless at the expense of the weaker. Next best is pure democracy, in which all the people have an equal share in carrying on the affairs of the state, meeting in common council to transact the public business; but this too becomes impracticable when the state passes certain

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Its difficulties are practical difficulties—it is slow, cumbersome, inefficient, blundering; its decentralization makes for waste and friction; the inexperience and multiplicity of its officers open the way for privilege and corruption. But all these have to do with its machinery rather than with its philosophy. The democratic state is not seeking an ideal of efficiency or of stability. For Jefferson, the primary purpose of government is to promote the happiness, the self-realization, of the individual. This democracy achieves, perhaps to a greater degree than any other form of government; and in so far as it does achieve this, it fulfills its ideal. The rest is of secondary importance.

The chief difficulty with Jefferson's political system on its theoretical side is that of getting the individual into society without the use of force. He argues that some form of social organization is necessary to protect and enforce individual rights; and at the same time, he bases morality on innate social instincts. Logically, these two arguments are incompatible; for a consistent individualism cannot admit instinctive social desires, any more than a natural social order can leave room for unrestricted personal rights. Jefferson gets around the difficulty by putting a social limitation on the inherent rights of men. Rights and duties are in some sense related, and the individual can exercise his own rights only to the extent that they do not conflict with those of others. What results is a continuous compromise between the demands of the individual and the necessities of the society. No one gets all he wants, but everyone gets something; and the welfare of the group as a whole ultimately emerges as the real purpose of the state, the individual end being absorbed in the social end. Jefferson was not writing a philosophy of the state alone; he was helping to create and administer a government. His view was the view supported by the authorities most respected in America, it was upheld by the liberal thought of the age, and it was believed by the people to whom, in the end, the new state had to appeal for support. A perfect government would no doubt be perfectly logical; but the perfect government is as chimerical as the perfect man. In every state, as in every life, there is a measure of paradox, which may perhaps be strength as well as weakness.

Jefferson seeks to resolve the antagonism between individual and society in his treatment of liberty and equality; for it is only by making these two notions complementary that the compromise between personal and social ends can be carried out. Equality for

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Jefferson means simply that the state recognizes no distinction between its citizens; and liberty means the absence of external restraint. Now equality itself is a form of restraint; for I am free to act only to the extent that all others in the state may act in the same way, and I am the equal of others only to the extent that my liberty is so limited. Complete individualism implies freedom limited only by personal capacity; but where legal equality is recognized by the state, the restriction upon freedom becomes social rather than personal.

Liberty under these conditions is reduced to the absence of external restraint in so far as it is compatible with the welfare of the group, each individual in the society being regarded as equally free to act within these limits, and equally entitled to protection from the unlimited freedom of others. Since there is no sphere but that of the intellect in which the activity of one may not be injurious to others, freedom reduces in the end to intellectual freedom. Individual liberty means no more than liberty to think, to speak, to worship; liberty to read and write without censorship, and to associate with others for any legitimate purpose. But this is enough. Political growth and social change come slowly, through the introduction and gradual dissemination of new ideas; and the philosophy of democracy is simply a recognition of the fact that ideas will spread and change will come eventually, in spite of the opposition of intrenched privilege and class interest.

Jefferson's wisdom lay in his faith and his trust in men; and this alone is enough to explain the tremendous appeal of democratic thought in the modern world. For men in whom others believe come at length to believe in themselves; men on whom others depend are in the main dependable. Most of us do what we know is expected of us, be it good or ill. The objective of the democratic state is to secure the greatest possible happiness for all its citizens, and it assumes that this end is recognized and sought by the individuals concerned. It treats them, therefore, not as subjects but as partners in a common enterprise; and it lifts them thereby from the ruck of serfdom to the level of human beings, breeding in them independence, initiative, and self-reliance.

The final test of any political philosophy is not the logical but the pragmatic test. The only criterion for judging any theory of the state is the measure of its practical success. The Jeffersonian state was constructed to meet the conditions of a given time and place—to solve the problems of a pioneer people in a vast and undeveloped

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

country. All this democracy accomplished, perhaps better than any other form of government could have done it. Jefferson succeeded in both his immediate objectives—to justify a separation from Great Britain and to create a government adequate to the people and resources of America. But to build for the future is more difficult, and requires imagination and idealism such as few possess. Jefferson realized the futility of trying to fix in one generation political forms that should be valid for all time. He knew that a static society cannot endure, and his efforts were bent toward providing peaceable instruments for accomplishing the inevitable changes which time must bring. His legacy is not his solution of the political problem, but his realization that the problem must be solved anew in each succeeding era. Our heritage is his faith that an informed and intelligent people can and will work out their own salvation.

IV

We have said that the Jeffersonian political philosophy exhibits two distinct tendencies, two divergent emphases, which are superficially incompatible. In affirming the best government to be that which governs least, Jefferson proclaims himself an individualist, and commits himself to an economic doctrine of *laissez-faire*, but he declares also that the welfare of the whole is the proper purpose of the state, and maintains the power of the government to curtail the activities of the individual for the common good. On the side of individualism, the society must be regarded as an aggregate, the members of which are free to seek their own ends as they see fit. On the other side, the group is an organism: the parts, though performing various functions according to their capacity, are equal in importance, and are subject to such restrictions on their personal liberty as the health of the organism may require. The one emphasis leads to economic anarchy and philosophical isolation—to an "age of big business" and to Walden Pond. The other leads to a planned and controlled economy, and to a collective society—to state socialism and to Brook Farm.

It is not accident, nor mere theoretical inconsistency, that brings Jefferson to the cross-roads. The democratic and socialistic philosophies are closely linked, both historically and logically. The inconsistency is rather on the part of an age prone to regard them as at opposite poles. The seed of English socialism, as it germinated in Mill and T. H. Green and blossomed in the Labor party, was planted by Harrington and Locke; and the lineal ancestor of all

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

modern proletarian movements is the democrat, Jean Jacques Rousseau. Both individualism and socalism go back, to be sure, to Greece; but for our purposes we need not delve so remotely into the past. The rise of individualism as a philosophical doctrine is traceable to the Reformation, and as an economic dogma it is implicit in the Calvinist creed, which has stamped its impress ineffaceably on modern thought. It was economic individualism that brought in its train the revolt against absolutism and the rise of the democratic state.

Now it is this very economic individualism, tending to become more and more ruthless, that destroys at last the democratic order to which it gave rise. Democracy is a protest against political absolutism, which it ultimately replaces with an economic absolutism; and it is against this final consummation that socialist theory in its turn protests. Democracy, without an admixture of socialism, cannot survive the passing of an agricultural order; for the profits of commerce and industry are too large, and the power they give too great, to be compatible with the ideals of personal freedom and legal equality. If the power of the state must be checked, lest it be abused through sheer love of glory, how much more must the power of wealth be controlled, lest it be abused through the still more fundamental love of gain!

Democracy and socialism are alike motivated by the desire to free the individual from oppression, and to guarantee to each an opportunity for personal happiness, for self-realization, for practical liberty and spiritual freedom. Democracy is an attempt to distribute political power among the masses with the purpose of obviating once and for all the possibility of dictatorial control; socialism is a recognition of the fact that political and economic power must and will be identified. The aim of socialism is to recover the democratic freedom, the emphasis on human values, the recognition of personal worth, which a highly mechanized civilization tends to overwhelm.

The differentia of democracy is the sovereignty of the people, through public opinion, which is true of the socialist state alone among other forms of government. The only difference between the two is in fact a difference of emphasis; and unless both emphases are combined, as they were in Jefferson, neither form can hold its own. One is the natural corrective of the abuses of the other. If liberty be made basal, and logically followed, the result is a dictatorship by those who most successfully use their liberty to acquire

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

economic power. If, on the other hand, equality be made the fundamental issue, the logical outcome is complete communism. If all men acted with unselfish charity, there would be no political problem; but with due allowance for human nature, it seems impossible to set up an ethical code without authority behind it. Since the Reformation, and for some centuries before it, the authority of the church has failed to enforce morality in a commercial world. The alternative is an ethico-juristic code, established by public opinion operating through the channels of representative government, and backed by the power of the state.

Having gone so far, it becomes apparent that the individualistic and socialistic tendencies in Jefferson—and in all sound democratic theory—are no longer incompatible. Both follow from the initial premise of the democratic state: that the purpose of government is to promote the personal happiness of those who owe allegiance to it. This end is impossible without a measure of individual liberty; but it is also impossible if certain persons or groups, through the attainment of economic power, are allowed to coerce for their own ends other individuals or groups. The industrialist, the landowner, the labor leader, are alike subject to regulation and control by the state whenever their activities interfere with the right of others to the pursuit of happiness.

These phrases are vague enough; but political society is an elusive thing, and the rules must not be defined too rigidly, lest they be rudely trampled under foot as the game proceeds. The exact point at which the power of the state must be exerted to curb individual enterprise, the precise line which marks the social good, must be determined by expediency—by the possibilities of the given situation and the circumstances of the hour. When the population is small in comparison with the extent of the national domain, and vast natural resources are only beginning to be exploited, there is enough for all, and individual initiative is the order of the day. But where the proportion of unemployed is large and distribution of economic goods increasingly unequal, the balance of public opinion will swing toward the side of the dispossessed, and the social functions of the state will be emphasized. In general, the older and more densely peopled the country, the more socialistic it will become. The peculiar strength of the democratic philosophy lies in the very broadness of its principles, which makes possible adjustment to a changing social order within the familiar framework of the traditional governmental structure.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

**Second Session of the Seventy-third Congress, January 3, 1934, to June 18, 1934.**[1] This Congress has been conducted in a crucible. The problems that demanded consideration were the most momentous since the war years. These tangible burdens, weighty and perplexing enough when taken separately, served in the aggregate and under the conditions of the time to test in most exacting fashion the very governmental system itself. The adequacy of Congress as a satisfactory political institution was at stake. Was the presidential system as such competent or even capable of meeting its responsibilities? The leadership of Congress during the special session was sustained in large measure by the impetus to action engendered by the economic crisis. But weaknesses in the congressional structure, hidden by the unifying effect of the emergency period, appeared clearly during the second session. What were the elements affecting Congress as a law-making body, and how did the presidential system withstand the strains of this second session?

*Politics and the President.* Two desires broadly influenced the activities of the session. One was to hasten economic recovery and the other was to win the November election. At the beginning of the session, Republican leaders decided that, in view of the wide popular approval of the Administration, their best policy was to go along with the President. The overwhelming Democratic majority (313 Dem., 115 Rep., 5 F.-L., 2 vacancies in the House, and 60 Dem., 35 Rep., 1 F.-L. in the Senate), the lack of an alternative program, and the paucity of the opposition leadership gave added weight to this stand. Although the temper of the minority party changed during the late spring, this did not notably affect the outcome of the session. With the entire House and about a third of the Senate (17 Dem., 17 Rep. and 1 F.-L.) coming up for reëlection, the strategy of the session turned upon reconciling the interests of these contestants with the Administration program.

No political advantage was to be had from attacking the President. Several general signs tended to corroborate the expressions of popular support that every congressman found in his morning mail. Before Congress had been in session a month, the nation-wide tribute to the President on his birthday showed the sentimental regard in which he was held. The outcome of the April primaries in the pivotal state of Illinois was interpreted as more tangible evidence of the voters' favorable attitude.

[1] For notes on the 73rd Congress, 1st Session, see this REVIEW, Vol. 28, p. 65. For the 72nd Congress, see Vol. 27, p. 404, and Vol. 26, p. 846. For notes prepared by Arthur W. Macmahon on the 71st Congress, see Vol. 24, pp. 38 and 913, and Vol. 25, p. 932. For notes on the 70th Congress, see Vol. 22, p. 650, and Vol. 23, p. 364; and on the 69th Congress, Vol. 20, p. 604, and Vol. 21, p. 297.



LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The attack on the President's advisers, manipulated according to reliable rumor by an officer of the National Manufacturers Association, left the Chief Executive apparently unscathed. He avoided an appearance of partisanship; he suggested somewhat a constitutional monarch. The Brain Trust might err, but the King could do no wrong. By May, the Wirt investigation had blown over without affecting the President's program, although slurring references were still occasionally made to "Frankfurter's hot dogs" and the "scarlet fever boys from the little red house in Georgetown." The *Literary Digest* poll showed an overwhelming popular support behind the Chief Executive. Yet in the face of this general approbation the President displayed a willingness to compromise with Congress that some commentators found difficult to explain. It seems clear, however, that his tactics were directed not merely toward enhancing his own popularity, but also toward fortifying the political positions of his congressional supporters. He was apparently profiting by the experience of his war-time chief, Woodrow Wilson. If he was to continue to make the presidential system work, he had to guard against the hazard of greatly diminished support in the Seventy-fourth Congress.

*The President and Congress.* At the opening of the session, the President addressed both houses in friendly and intimate fashion. His was not a formal report on the state of the union, but a broad, even vague, statement of aspirations and a personal acknowledgement of congressional coöperation. "Out of these friendly contacts," he said, "we are, fortunately, building a strong and permanent tie between the legislative and executive branches of the government. The letter of the Constitution wisely declared a separation, but the impulse of common purpose declares a union."

To cement and render workable this union was his constant endeavor. He showed a hesitancy to commit himself until the time was ripe for action, and he was willing to compromise in order to maintain cordial relations with Congress. He drove with a looser rein during this session and turned aside from the obstacles he could not surmount.

Seemingly out of courtesy and consideration for his congressional followers, the Chief Executive relaxed his "dictation" during the first few months. But leaving Congress to frame specifically his general proposals resulted in great disagreement between the two houses, and even among members of his own party. This appeared clearly in the fight over regulating the stock exchanges. Upon returning from his vacation in April, the President served notice that he would apply some of the lessons learned "from the barracuda and the shark." He threatened to tighten the slack and attempted to hasten the adjournment of Congress. He did pull Congress out of deep water, not by being a "tough guy" as he threatened, but by bringing the legislators to plot a course of action under his guidance.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The first move after his return was to hold conferences with the House leaders and with important senators. Orders could be issued to the lower chamber, but the President saw the wisdom of coöperating with the chairmen of important Senate committees and with certain senatorial personalities who might endanger his program.[2] Tentative plans were discussed for the remainder of the session. Through conferences of this sort, President Roosevelt during this Congress demonstrated the significance of the presidential office as the only agency for coördinating the work of the administrative branches and the legislature. In practice, he evolved informally a "master-ministry" of congressional leaders, cabinet officers, and executive officials working through the White House. Recognizing and implementing this rather inchoate group of leaders might serve to introduce the coördination now left to personal and informal contacts. The paradox of the present system is that only a conciliatory presidential policy can get the conflicting congressional *blocs* to work together—but then to what end? The President likened his tactics to the play-by-play strategy of the football gridiron, but many congressmen preferred to regard him still as another Moses leading the people to the promised land. The matters upon which the President was obliged to compromise or accept defeat were those where a clear group or regional interest was infringed. The measures that he regarded as basic to the recovery program he fought for, but to obtain his ultimate ends he was willing to offer a *quid pro quo*.

*The Administration Program.* The President suffered more than one set-back during the session, but at its adjournment he found his heritage of authority from the first session greatly increased. The Gold Reserve Act (H. R. 6976) was passed in virtually the form outlined in the presidential message of January 15. The Reciprocal Tariff Act (H. R. 8687), despite the numerous amendments suggested, gave the President the authority he requested in his message of March 2. Although the houses disagreed as to how the Stock Exchange Act (H. R. 9323) was to be administered and margins regulated, the bill as finally enacted on June 1 conformed generally to the design indicated in the President's message of

[2] Those at the conference on April 14 were: Vice-President Garner; Senator Robinson, the majority leader; Senator Harrison, chairman of the finance committee; Senator Fletcher, chairman of the banking and currency committee; Senator Pittman, chairman of the foreign relations committee; Senator Dill, chairman of the interstate commerce committee; Senator Smith, chairman of the agriculture committee; Senator Walsh, chairman of the education and labor committee; Senator McKellar, chairman of the postoffices and post roads committee; Senator Glass, chairman of the appropriations committee; Senator Black, head of the special air mail investigating committee; Senator Clark of Missouri; Senator McAdoo of California; Senator Lonergan of Connecticut; Senator Conally of Texas; Senator Murphy of Iowa.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

February 9. His recommendation of February 26 relating to the regulation of radio, cables, and wires were realized in the creation of the Federal Communications Commission (S. 3285).

*Credit.* Following a special message of January 10, Congress promptly amended the Emergency Farm Credit Act of 1933 (H. R. 5790), thereby guaranteeing the principle of $2,000,000,000 in bonds for refinancing farm mortgages. While Congress was unwilling to follow the Administration altogether in extending the life of the R.F.C. for three years or increasing its borrowing authority by $1,000,000,000, the Corporation's powers were nevertheless increased in several important regards and its existence prolonged until February, 1935, in a bill (S. 2125) signed on January 20.

Congress readily followed the President's recommendation of March 1 that the government acknowledge its obligation for the bonds issued under the House Owner's Loan Act. The Senate accepted, 40 to 33, the Norris amendment providing that "no partisan test or qualification shall be permitted or given consideration" respecting the personnel of the House Owner's Loan Corporation. The debate on March 15 disclosed the personal discomfiture that patronage problems had caused many senators. Although the President was known to favor the Norris provision, it was eliminated by the House committee on currency and banking. S. 2999 was approved on April 27.

The President on March 19 suggested that loans to the "medium-sized man in industry and commerce" be arranged through twelve special banks. After much debate, Congress finally authorized $580,000,000 to be made available through the R.F.C. and the federal reserve banks (S. 3487). On May 14, the President urged extending credit to alleviate unemployment by stimulating house repairs and improvements. The argument that Abraham Lincoln built his own log cabin without federal aid was of no avail before the combined pressure of the White House and the building trades. The National Housing Act (H. R. 9620), the "last link in the recovery chain," created a $200,000,000 Home Credit Insurance Corporation.

*The Departments and Bills.* Two important Administration measures were of special concern to the Department of the Interior. The Taylor bill (H. R. 6462) regulated grazing on the public domain and the Wheeler-Howard Indian bill (S. 3645) provided funds for education, land, and livestock for Indians. Indian organization along tribal lines also was authorized.

Both the Attorney-General and Senator Copeland offered a series of bills to deal with federal suppression of banditry and kidnapping. The President on May 18 approved six of the measures recommended by the Department of Justice.

The Administration's plan for building the navy up to treaty strength

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

was authorized in the Vinson bill (H. R. 6604). The discussions in Congress turned upon the limits for expenditure and the distribution of the work between federal navy yards and private shipbuilders.

The President's general program was not challenged successfully on the ground of principle or of national policy. Largely due to last-minute pressure, Congress failed to provide for strengthening the federal control of petroleum production which Roosvelt desired. Most of the President's proposals for recovery and for regulatory legislation were followed. The future of the N.R.A. was, however, left for the next Congress.

*Labor.* An effort by the House labor committee to enact a thirty-hour-week bill in the face of General Johnson's disapproval failed. Outstanding was the loss of the Wagner bill, designed to strengthen the collective bargaining features of the N.I.R.A. A substitute measure, S. J. Res. 143, was put through on June 16. Two other important measures were jammed through during the closing hours under strong pressure from the railway brotherhoods. S. 3231 set up a pension retirement system and H. R. 9861 provided a national adjustment board for railroad employees. The delayed maneuvers on these bills seemed not unrelated to the coming campaign.

*Agriculture.* The Administration gave especial consideration to the farmers. The President approved the Bankhead bill (H. R. 8402) providing for the compulsory restriction of the cotton crop and the Kerr bill (H. R. 9690) regulating tobacco production. In a message of February 8, his proposals suggesting quotas for the importation and domestic production of sugar were enacted in the Jones-Costigan bill (H. R. 8861). The Secretary of Agriculture got Congress to include dairy and beef cattle among the basic commodities. Senate amendments prompted by several farm organizations added peanuts, barley, flax, and grain sorghums (H. R. 7478). Why not, it was inquired, add spinach? Senator Long expressed his willingness to vote for "anything else that it is moved to put in; I am for putting them all in" (p. 4052). This summed up in extreme form a prevalent Congressional attitude.

*Silver.* The Administration made a notable compromise with the silver *bloc.* A silver purchase amendment to the gold reserve bill came within two votes of passage in the Senate on January 27 (Dem. 28 yea, 28 nay; Rep. 14 yea, 17 nay; F.-L. 1 yea). The House considered the silver question on March 19, and by a vote of 258 to 112 (Dem. 233 yea, 38 nay; Rep. 20 yea, 74 nay; F.-L. 5 yea), passed the Dies bill (H. R. 7581). Three days later the President sent his special silver message recommending "legislation declaring it to be the policy of the United States to increase the amount of silver in our monetary stocks with the ultimate objective of having and maintaining one fourth of their monetary value in silver and three fourths in gold." Behind this message lay weeks of negotiation

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

between the silverites and the Administration. Senator King brought together the senators from the silver states to consider the Dies bill and to formulate a bill of their own. Not to be outdone by the Senate, the House ways and means committee, by adding a fifty per cent tax on silver profits, was thereby enabled to claim jurisdiction over proposals otherwise identical with the provisions of the Senate bill. This measure passed the House on May 31, 263 to 77 (Dem. 246 yea, 6 nay; Rep. 14 yea, 71 nay; F.-L. 3 yea) and the Senate on June 11, 54 to 25 (Dem. 46 yea, 6 nay; Rep. 7 yea, 19 nay; F.-L. 1 yea). While dubbed an Administration measure, it was really the product of hard bargaining between the silver *bloc* and the President together with his Treasury advisers. Senator Pittman, for example, stated: "The President yielded with regard to the mandatory provision about purchasing silver until he got 25 per cent of the reserves, and we yielded on the point that he should not be required to purchase 50,000,000 ounces a month, or any other particular amount." While ready to compromise, the silver group indicated that it was not to be disarmed by voting the President permissive powers that he might never use. Its paper victory during the special session had made it more wary.

*Sectionalism and the St. Lawrence Waterway.* Regional rivalries appeared boldly in the voting on the Administration silver bill, the Dies farm-silver bill, and the Wheeler silver purchase measure. An alignment of East against West appeared in the Senate on the measure to prohibit marginal trading (Dem. 21 yea, 30 nay; Rep. 8 yea, 18 nay; F.-L. 1 yea). The New England senators were unanimously opposed and the majority of those from the Atlantic states. Most of the senators from the mountain and north-west central states were in favor of the proposal. This amendment to the Securities Act was defeated on May 9 by 30 to 48. The eastern seaboard was strongly against the Couzens proposal to impose a ten per cent super-tax on income surtaxes, while support came from the Middle and Far West. The measure passed the Senate, on April 11, by 43 to 36 (Dem. 28 yea, 19 nay; Rep. 14 yea, 17 nay; F.-L. 1 yea).

Sectional rivalry appeared perhaps most clearly in a fight to ratify the St. Lawrence Waterway Treaty. Strong opposition came from all states of the Atlantic seaboard region. The bill was ardently sponsored by the President, but party loyalty had little to do with the outcome (Dem. 31 yea, 22 nay; Rep. 14 yea, 20 nay; F.-L. 1 yea). In a special message to the Senate on January 10, the President said: "Broad national reasons lead me, without hesitation, to advocate the treaty. There are two main considerations—navigation and power."

Where the interests of their state were not affected, Democratic senators followed the President. For instance, the south central states were generally favorable, but Long and Overton of Louisiana put New Orleans shipping first and opposed the bill. Of the ten senators from Ohio, Illinois,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Michigan, Wisconsin, and Indiana, five were Republicans and five Democrats. Eight of the ten supported the President's bill, but the two Democratic senators from Illinois had local considerations of their own. The Senate vote of 46 to 42 failed to reach the two-thirds required for ratification.

*Appropriations.* The President got ready support for his measures granting relief and aid to various groups and sections. The essence of statesmanship here was in curbing the generosity of the politicians. In the budget message he stated: "The excess of expenditures over receipts during this fiscal year amounts to over seven billion dollars. My estimates for the coming fiscal year show an excess of expenditures over receipts of two billion dollars. We shall plan to have a definitely balanced budget for the third year of recovery and from that time on seek a continuing reduction of the national debt."

By the end of the session, the regular appropriations totalled $3,621,553,438, while the emergency total came to $3,904,829,428. On June 4, with forty minutes for debate and with amendments banned, the House leaders put through the Deficiency Appropriation bill for 1934 carrying over a billion dollars, largely to be distributed at presidential discretion among relief agencies. On the other hand, the majority leaders met defeat when they attempted to uphold the President's economy program in the Independent Offices Appropriations bill.

*Economy, Veto, and Defeat.* The House leaders felt that a rigid control of procedure was needed to protect this bill. Accordingly, on January 11 the rules committee offered H. Res. 217 which ruled out all amendments except those offered by the committee on appropriations and prohibited amendments to this or to any subsequent appropriation bill that would run counter to the economy plan of the last session. Chairman of Rules Bankhead explained: "The purpose of this whole controversy here today is to have the House deliberately determine for today and hereafter during the remainder of this session whether or not they are going to follow the President's recommendations."

Mr. Snell objected to the rule because it prevented the minority from offering the "usual motion" to recommit the bill with instructions to the appropriations committee. The Speaker ruled that such a motion might be made under the general rules of the House, but that "a motion to recommit with instructions to incorporate a provision which would be in violation of the special rule, House Resolution 217, would not be in order." But H. Res. 217 banned any tampering with that part of the bill relating to the economy program. This was a bitter dose for the opposition, since it prevented that side from stating its position and getting a vote on its proposed instructions to the committee. Thus it could not force a record vote on the restoration of the pay cut.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The Speaker's interpretation of the motion to recommit without instructions was upheld by a clear party vote of 112 to 61. This ruling was characterized by Mr. Snell as contrary to the rules and precedents of the House and as "the most unfair, the most ruthless decision" that he had witnessed in his twenty years experience in that body. As to H. Res. 217, he found it "the most vicious, the most far-reaching, special rule that has ever been brought on the floor of the American Congress."

The Democratic leaders, however, put their rigid rule through by a narrow margin of five votes. Three more Democratic deserters would have brought defeat. The rule was approved by 197 to 192 (Dem. 197 yea, 84 nay; Rep. 0 yea, 103 nay; F.-L. 5 nay) on January 11. A Republican motion to recommit the Independent Office bill was defeated, 240–141, on January 12 and the bill was passed at once without a record vote. In the Senate, the Administration leaders were not so fortunate. By a 41 to 40 vote (Dem. 13 yea, 39 nay; Rep. 27 yea, 1 nay; F.-L. 1 yea), the amendment of Senator McCarran was adopted providing for full restitution of the pay cut on July 1, 1934. By 45 to 39 (Dem. 27 yea, 28 nay; Rep. 17 yea, 11 nay; F.-L. 1 yea) the senators agreed to the Borah proposal for withholding the pay-cut restoration from those receiving more than $6,000 a year. The Senate, through its amendments, had opened Title II of the bill, the Pandora's box which the House leaders had clamped down by their special rules. When this amended bill came back to the Speaker's table on March 1, the leaders followed an unusual procedure. The custom is to send bills directly to conference by a unanimous consent agreement. In this case, however, the "regular" rules of the House were followed strictly, and the Independent Offices bill was referred back to the appropriations committee for consideration. While entirely "regular," this procedure was so unusual that it occasioned comment and gave rise to a rumor that the bill was to be smothered in committee and the expenses of the independent offices met by a special continuing resolution. The leaders, however, were playing for time to muster their forces and plan a course of action. Two caucuses were held, in which they attempted to bind their followers not to take up these Senate amendments on the floor, but to send the bill directly to conference.

The majority leaders promised that after the conferees had acted the measure would be put before the Democratic caucus for consideration. This failed to satisfy the Democrats and further aroused the Republicans. Finally on March 14, the House leaders introduced H. Res. 299, a special rule to authorize sending the Independent Offices bill to conference without instructions, but the leaders were unable to hold in line a membership determined to go on record in support of specific items of the bill. "I wish that we might for the moment cease to be partisans of the American Legion or partisans of the Spanish-American War veterans or partisans

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of the employees or even candidates for reëlection as all of us are," Representative Woodrum stated (p. 4612). "I wish we might simply consider a pure question of practical procedure." The members chose rather to consider it a pure question of practical politics and repudiated the motion of the rules committee by 169 to 247. The bill was opened for amendment on the floor and the demands of the organized veterans were frankly written into the measure. The Senate amendments were voted down and on March 14 the House approved Representative Taber's veteran amendment by 223 to 191 (Dem. 202 yea, 97 nay; Rep. 21 yea, 89 nay; F.-L. 5 nay). The lack of leadership in the House at this time was strikingly shown by a vote taken two days later. The House then came within one vote (189 to 190) of accepting the Senate veteran amendments which it had rejected on March 14. The Senate on March 26 gave way to the changes made by the House, only to have the President veto the bill the next day. The inadequacy of our presidential system to maintain a responsible financial program was only too well demonstrated by the House vote of 310 to 72 (Dem. 209 yea, 70 nay; Rep. 97 yea, 2 nay; F.-L. 4 yea) and the Senate vote of 63 to 27 (Dem. 29 yea, 27 nay; Rep. 33 yea, 0 nay; F.-L. 1 yea) in over-riding the veto. Although the Chief Executive offered to compromise, his proposals were ignored. "This bill exceeds the estimates submitted by me in the sum of $228,000,000," President Roosevelt stated. "I am compelled to take note of the fact that in creating this excess the Congress has failed at the same time to provide a similar sum by additional taxation."

*Revenue.* The President, however, left the onus of taxation strictly to Congress. The attempt of the party leaders in the House to secure special rules for preventing the members from tampering with fiscal legislation suggests a parallel to the procedure in the House of Commons where the ministry will brook no interference with its financial proposals.

On February 21, the House passed (by 388 to 7) a general revenue bill calculated to raise $263,000,000. Party leaders were chary of taking chances by permitting the complex provisions of this measure, which had occupied the ways and means committee for months, to be torn apart in the rough and tumble of the floor. Mr. Bankhead accordingly brought in a rule (H. Res. 266) which limited debate to sixteen hours and banned all amendments except those having the sanction of the committee on ways and means.[3] The steering committee had given its sanction to the

[3] *Cong. Rec.*, February 14, 1934, p. 2563: "The rules committee was requested to bring in this rule. We did not originate it. We hardly ever originate a proposition for the consideration of a rule. The leadership of this House is behind this rule, and moreover, at this session of Congress we set up in this body on our side a new organization, known as the steering committee of the Democratic organization in the House, and that committee was expected to perform certain functions with

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

rule. A futile debate brought up the usual protests against robbing the law-makers of their power. The soundest comment was that of a veteran legislator who likened the whole partisan discussion of gag rules to a case of the pot calling the kettle black. The rule was sustained by 241 to 154. In the Senate, important amendments offered by Senators La Follette and Borah were added to the bill on April 12–13. When the measure passed the Senate on the latter date by a 53 to 7 majority, it was expected to bring in sufficient revenue to provide for the congressional generosity to veterans and office-holders. The tricks of procedure while forcing through revenue legislation were inadequate in checking expenditures frowned upon by the responsible leaders. The congressional machine demonstrated its incapacity for coördinated accomplishment under presidential guidance.

The high point in the endeavor to retain control of the House was reached on June 1, when the rules committee brought in an extraordinarily stringent proposal (H. Res. 410). This rule provided that during the remainder of the session it should be in order at any time (a) for the Speaker to entertain motions to suspend the rules; (b) for the majority leader to move that the House take a recess; (c) for the House to consider reports from the rules committee without the usual requirement of a two-thirds vote supporting such consideration.

Several factors influenced this extreme move. The President was anxious to see the end of the session and the early enactment of several important measures which were still pending. The Republicans were accused of obstructionist tactics. Dissatisfied with a ruling by the Speaker in regard to the presence of a quorum, the minority on May 31 forced a series of roll-calls as a gesture of protest. Further time was consumed while the clerk, at Snell's insistence, read the minutes of the proceedings word for word. Tempers were warm when the time came to vote on the rule on June 1. The sergeant-at-arms intervened to avert fisticuffs between two members. Jeers and boos were exchanged across the aisles. But the special rule was passed by 240 to 92 (Dem. 238 yea, 5 nay; Rep. 0 yea, 86 nay; F.-L. 2 yea, 1 nay), and the House surrendered to the leaders of the majority party for the rest of the session. Mr. Bankhead could now secure immediate approval of a special rule by a simple majority vote and force

reference to questions of party policy and with the management of our efforts here on the floor of the House. Before the rules committee was willing to bring in this rule, realizing the temper of the House upon the rule we brought in to consider the independent offices appropriation bill, we requested that this matter be submitted to the conservative judgment of the steering committee of the Democratic party, to determine whether or not we should bring in this rule."

The rules committee during the session reported 64 special rules. Of these, 58 were passed, three were tabled, two remained on the calendar, and only one was voted down.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

through in a few minutes measures that under the ordinary procedure would have taken many hours.

*Minorities and the Discharge Rule.* The struggle over rules of procedure was no sham battle but a grim fight between the Administration forces seeking to carry through a program and strong *blocs* alert to forward their own measures. If the House leaders had a broadsword in the gag rule, minorities had a dagger in the discharge rule. Their weapon was keen, though restricted in its range. Since its "reform" on December 8, 1931, the discharge rule has been used persistently for the benefit of special interests. During this session it was referred to as an asinine rule and its amendment was demanded in the name of "majority government." The Floor Leader and the Speaker attempted during the special session, and also at the beginning of this session, to go back to the old rule requiring 218 signatures on a discharge petition. The existing rule, declared Representative McDuffie "is a millstone about the neck of the majority charged with the responsibility of legislation." On the other hand, its effectiveness in securing legislation has been slight. In practice, the rule has been little more than a device for those desiring to placate minorities by political gestures. Of the 31 motions to discharge committees introduced during the Seventy-third Congress, only six received the 145 signatures needed, and of these only two prevailed. One related to the De Priest resolution (H. Res. 236), passed April 25, ordering an investigation of alleged racial discrimination in the House restaurant. The rules committee allowed the consideration of this resolution as a matter of courtesy, holding that it did not properly fall within the scope of the discharge rule. The House actually voted upon only one motion. This single direct use of the discharge rule was the vote on H. R. 1. providing for the immediate payment to veterans of the face value of their adjusted service certificates. The bill was stigmatized as "a mere vote-getting gesture" and the President's blunt veto threat was read into the record. But the veteran's *bloc* had its way. On March 12, a motion to discharge the committee on ways and means from the further consideration of this bill was passed by a vote of 313 to 104, and after a lengthy discussion largely addressed to the galleries the measure was passed by 295 to 125 (Dem. 231 yea, 74 nay; Rep. 59 yea, 51 nay; F.-L. 5 yea). New England was the only region with a majority of its House delegation in opposition to the Patman bill. A considerable resistance was to be found generally among the Atlantic states, but representatives from the rest of the country overwhelmingly supported the measure. The members of the House interested in H. R. 1 organized a special steering committee to assist in the passage of the bill. "This committee has met regularly and worked very hard," its chairman, Representative Patman, told the House.

The leaders of the majority were apparently reconciled to letting the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

veteran's *bloc* run its course, but they skillfully avoided a vote on all other discharge motions. The most interesting under-cover battle of the session was the procedural strategy used to prevent the McLeod bill from coming to a vote. This measure proposed paying off the depositors who had lost money in national bank closings, and its charms as a possible vote-winner apparently made it too great a temptation for the leaders to risk its consideration by the rank and file of the House during a campaign year.

On April 13, a petition was entered for forcing the banking and currency committee to report the bill. On the 23rd, seven legislative days having duly elapsed, the motion to discharge was offered by Representative McLeod. The committee that very morning had already reported the bill, but this merely served to place the measure on the Union Calendar, there to await its turn and probably die of neglect. The question arose as to whether the efficacy of the discharge rule could be turned aside in this fashion. The Speaker ruled that a bill could not be taken from a committee under the discharge rule when that committee no longer had the measure under its jurisdiction. The sponsors accordingly filed at once a petition to discharge the rules committee of a special motion to bring the bill before the House.

A third motion was entered on the Discharge Calendar to secure consideration of H. R. 7430, a bill to establish a six-hour day for employees on carriers in interstate commerce. The committee on interstate and foreign commerce reported the bill, and nothing came of the discharge motion.

But those in charge of the McLeod bill were more active. Their motion to force action from the rules committee was entered on May 31 and under the regular rules would have come up seven legislative days later. On June 1, however, the House adopted the special gag procedure already mentioned. The power given the Floor Leader to "move a recess" instead of adjourning the House meant that he could prolong the "legislative day" indefinitely without reference to the passing of calendar days. This recess plan enabled the Floor Leader to eliminate the seven legislative days required by the discharge rule and thereby scotched the discharge petitions pending. Through this procedural trick, the majority leaders at the end of the session were saved the embarrassment of a direct test vote, not only on the McLeod bill, but also on the Frazier-Lemke bill, which was the fourth bill entered on the Discharge Calendar.

The majority leaders dodged the first three, as we have noted, but they were unable entirely to side-track this latter measure. This bill, H. R. 2855, proposed to refinance farm mortgages and to extend credit to farmers on livestock at a very low interest rate. Its political appeal to the farm belt was clear. Although the gag rule of June 1 came just in time to prevent consideration of it by the House, a less drastic substitute meas-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ure, S. 3580, was passed by the Senate. This McKeown-Frazier bill provided for the scaling down of the farmer's liabilities and for a six-year mortgage moratorium. The constitutionality of the measure was questioned, the Farm Credit Administration was non-committal, and a presidential veto was expected by many. Nevertheless, the measure was put through both houses during the last two days of the session and signed by the President on June 28. The House leaders had to use extraordinary procedural devices for heading off these discharge petitions, each of which was designed to appeal to a clear minority interest. Their failure to outmaneuver the farm and veteran *blocs* demonstrated the difficulties of control with an election pending.

*Conclusion.* This session showed clearly that the representative principle could not be consistently maintained if confusion was to be avoided. A responsible will could be asserted only through skillful use of parliamentary devices for excluding *bloc* wills. But such procedural tricks were of very limited effectiveness. The House broke away over the bonus, while the Senate held. But the Senate opened questions which had been closed to amendment in the House. When *blocs* in both houses worked together, additional veteran benefits and silver legislation were secured. On most bills, Democrats and Republicans were willing to support the President. Considering Roosevelt's record, O. G. Villard concluded that "without too obvious resort to politics or the use of undue pressure, he has played Congress with all the skill of the most expert fisherman with a trout on his hook." President Roosevelt's tactics were adroit, but certainly his fly was more than usually attractive (and expensive).

The appropriations of the session exceeded seven and a half billion dollars. When to this is added the fact that about 89,000 new political jobs were created, the Administration's influence upon congressmen is more easily explained. In March, 1933, according to the Civil Service Commission, there were 110,000 federal positions outside of the classified civil service; by the end of the second session, the total was 199,000. In May, 1934, alone, nearly 15,000 office-holders were added to the federal administrative forces. At the end of July, the Commission reported that a total of about 100,000 new jobs not under the civil service had been created since Roosevelt took office.

The flippant explanation attributed to Al Smith—"Nobody wants to fire Santa Claus"—raises a fundamental question which, although evading a categorical answer from the experience of this past session, at least prompts speculation. The conclusion seems inescapable that the power of the President to guide legislation rested in considerable measure upon his wide discretionary authority over the distribution of funds and jobs; but the relative weight to be given this factor must remain a matter for individual judgment.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The President accepted the principle of vast federal expenditures on public works as a means of speeding recovery. Journalist Hearst and Economist Keynes endorsed the move, as did the majority in Congress. The cost was necessarily high. Although its justification was placed upon economic grounds, the move was certainly politically expedient. It is very unlikely that the Chief Executive could have acted otherwise and still retained a semblance of control over Congress. The great majority that voted to override his veto of the Independent Offices Appropriations bill showed the readiness with which representatives and senators deserted the President when they thought his measures were bad politics for home consumption. The individual congressman could not risk his chances of reëlection; nor could the Administration afford to endanger the position of its supporters.

The President's policy, therefore, was one of compromise and concession directed toward curbing the more extreme demands of regions and classes. These elements appeared in congressional *blocs* backed by organized minorities concerned only with their immediate welfare. To evoke a unified conception of national interest from such warring forces would be difficult under any circumstances, and under our system proves well-nigh impossible. Neither in the presidential office nor in the congressional leaders did sufficient authority reside for imposing the discipline needed to offset the fear of sectional and group interests. The Administration could do little more than keep order in the bread-line that reached into the Treasury.

With the acceptance of the principle of federal fiscal aid for distress and of governmental responsibility for economic rehabilitation, the task of the Administration was to bring relief not only to those demanding assistance, but also to the less articulate groups. The home-owners, the small business men, and the Indians were remembered along with better organized groups such as the farmers, the veterans, the silverites, and the bankers. The inflationists and debtors generally were more insistent in their demands, and more successful as well. Labor, in the face of strong opposition from employers' associations, failed to secure the abolition of company unions. Despite presidential endorsement, Congress postponed consideration of the Tugwell food and drug bill designed for the consumers' benefit, the anti-lynching bill for the Negro, and the unemployment and old age pension measures. Obviously, all of these projects were such as to arouse racial or economic class antagonisms.

During this session, the President showed himself as an astute politician rather than as a crusader. A greater burden was placed upon party officials in Congress. No leaders there were capable of securing command by the sheer weight of their personalities. Control was attempted, with only partial success, through the tricks of parliamentary procedure. Con-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

gress represented sharply the many special interests of class and section, and representative government in these terms cost billions. Although the second session exhibited, in the main, a picture of President and Congress working together, it also demonstrated how weak are the devices of responsible leadership and control when strained by the divisive force of organized minorities. Can the presidential system continue as a game of touch and go between the Chief Executive and congressional *blocs* played by procedural dodges and with bread and circuses for forfeits?

E. Pendleton Herring.

*Harvard University.*

**Is There a Time Limit for Impeachment?** The failure of the recent attempt to impeach the late Governor Horton of Tennessee is of particular interest to students of political science because of the grounds upon which the failure to impeach was justified. The main reason given by many members of the legislature was a constitutional one, namely, that an officer cannot be impeached during his second term of office for high crimes and misdemeanors committed during his first term. Considerable doubt remains as to the soundness of this position, many people thinking that the explanation given was a clever excuse but one that would not justify the failure to impeach.[1] It is interesting, therefore, to ascertain if, in impeachment trials where this point has arisen, a similar position has been taken either by legislative bodies or by the courts.

Like most state constitutions, the Tennessee constitution has only general provisions dealing with the rules of impeachment. The house of representatives impeaches; the senate acts as the court; and a two-thirds vote of this body is necessary to convict. The constitution then lists the officers who may be impeached, and states that impeachment may take place whenever officers, "may, in the opinion of the house of representatives, commit any crime in their official capacity which may require disqualification."[2] The only limit placed on the nature of the offense, therefore, is that it must be committed in the official capacity of the officer. No mention is made of a "term of office"; nor can it reasonably be inferred that it was the intention of the constitution's makers so to limit the liability of the officers of the state.

In glancing over the impeachment trials of federal officers, we discover only one instance in which the Senate of the United States has failed expressly to find guilty an officer charged with offenses committed during a previous term of office. This case was one in which there was

[1] A similar position was taken by Mayor Walker in the hearing conducted before Governor Roosevelt. This case will be considered later.

[2] Art. 5, sec. 4.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

a change of offices, and not the holding of the same office for several terms. In 1911, Judge Archbald, of the now defunct Commerce Court, was impeached on thirteen counts.[3] Six of the articles of impeachment maintained that he had wrongfully accepted money while he was a district judge, before he was in any way connected with the Commerce Court. On all charges of crime committed during his term of office as a district judge he was acquitted, while he was found guilty on other charges based upon actions that occurred during the time while he was a judge of the Commerce Court. Senator Stone gave as his reason for voting "not guilty" on the first group of charges: "I have grave doubts as to whether acts committed as an official while holding a given office can, after he ceases to hold that office, be made the basis of impeachment."[4] Other senators held the same opinion.[5]

Unfortunately, the issue was clouded by other considerations. Several senators, e.g., Root, Lodge, and Cullom, who voted "not guilty" did so because they considered that the offenses charged did not constitute crimes and misdemeanors. The charges were vague and uncertain; even the counsel for the defense considered them of minor importance.[6] Some senators also voted "not guilty" as to the charges relating to conduct in the district judgeship for the reason that, since Archbold had already been found guilty on the other charges, there was little point to voting him guilty on charges of somewhat doubtful propriety.[7] The senators named above, and many others, considered, however, that there was no inherent obstacle to trying a judge on charges relating to an earlier tenure of a different office.[8] It must be remembered that there is not a clear analogy between this case and any attempt that might have been made to impeach Governor Horton. The latter was serving his second term as governor, whereas in the Archbald case the attempt was to remove a Commerce Court judge for offenses committed while holding another office.

Another case often erroneously cited in substantiation of the idea that the Senate of the United Sattes has limited its power in respect to impeachments is that of William Blount of Tennessee. Blount was expelled from the Senate, and the House of Representatives later impeached him. He pleaded in defense, first, that a senator is not a civil officer under the meaning of the Constitution, and, second, that he was not himself a

[3] See *Proceedings of the United States Senate and House of Representatives in the Trial of Impeachment of Robert W. Archbald* (Washington, 1913).

[4] *Proceedings*, Vol. XI, p. 1652.

[5] See statement of Senator Simmons and others. *Proceedings*, Vol. XI, p. 1675 *et seq.*

[6] Statement of Simpson, counsel. *Proceedings*, Vol. XI, p. 1510.

[7] Statement of Senator Borah. *Ibid.*, p. 1635.

[8] *Ibid.*, p. 1650 *et seq.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

senator when the articles of impeachment were adopted. His plea was sustained on the first ground alone; accordingly, the ruling in that case is not authority on the question before us.

It might be asked, therefore, if an officer can be impeached after he has resigned his office or after he has severed his official connections. In England, it would seem that an officer can be impeached for any act, at any time, while in the United States we have a few examples of officers being impeached after they were out of office. Secretary of War Belknap secured the acceptance of his resignation by President Grant in order to evade impeachment. The House of Representatives, however, by a unanimous vote started impeachment proceedings notwithstanding the previous acceptance of his resignation. In the Senate he was found not guilty, although a majority of the senators voted guilty. The vote was 37 to 25, and the 25 votes were secured only through strong political pressure. Only 23 of the 62 senators believed that the Senate did not have jurisdiction because of the previous resignation of the officer.[9]

Years later, a case that was in many ways similar to the Belkhap case arose in Montana. Impeachment charges were filed against Judge Charles Crum in the senate of that state.[10] At a later date, he sent to the governor a letter of resignation, which was accepted. Two days later, the impeachment trial started. At the outset, a resolution passed the senate "to continue the trial of Judge Crum notwithstanding his resignation from office."[11] It would appear, therefore, that once an official has served his term and quietly returned to private life there is little danger of impeachment. However, when an official resigns in order to evade impeachment, the prevailing American doctrine is that he still may be impeached. The reason for this position is that in most instances when the senate finds an officer guilty of misconduct in office, he is disqualified from ever again holding public office.

Three times, in the history of the states, state officials have been impeached during their second term for offenses committed during their first term of office, and in each instance the senate has declared that it had jurisdiction to try the individual for such offenses. In the early history of Wisconsin, Levi Hubbell, a circuit court judge, was impeached for offenses committed during his first term, although the charges were not brought forward until his second term was well under way.[12] The question of the propriety of such action having been raised, the following resolution was passed by a vote of 19 to 5: "That the court in the trial

[9] *Proceedings of the Senate Sitting for the Trial of William W. Belknap* (Washington, 1876).

[10] *Proceedings of the Court for the Trial of Impeachment in the case of Charles L. Crum* (Helena, 1918).

[11] *Ibid.*, p. 24.

[12] *Trial of Impeachment of Levi Hubbell* (Madison, 1853).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of impeachment now pending have jurisdiction to inquire into offenses charged to have been committed as well during the former term of office of Levi Hubbell, judge of the second judicial circuit of the state, as into offenses charged to have been committed during the present term of the said office."[13]

When David Butler, governor of Nebraska, was impeached, several of the charges were for acts committed during his first term.[14] After considerable debate upon the question of jurisdiction, the senate unanimously passed a resolution "to investigate acts done in a previous term."[15]

George C. Barnard was reëlected a justice of the highest tribunal in New York State, and immediately after his reëlection was impeached.[16] Eleven out of the 38 articles dealt with misconduct occurring during a previous term of office. Barnard's lawyers maintained that since he "was reëlected, he came into possession of his new office approved and certified by the people as capable and worthy to occupy his position."[17] However, the court held otherwise, for by a vote of 9 to 23 it was decided that the senate had jurisdiction to try the case.

In the hearing held before Governor Roosevelt to determine whether James Walker should be removed from the office of mayor of New York City, the counsel for the defense maintained that Mayor Walker could not be held accountable for acts committed during a previous term. It must be remembered that this action did not constitute an impeachment trial, but only a hearing whereby the governor could ascertain the facts in the case. When the question of the legality of the hearing was taken to the courts, Justice Staley, in a memorandum opinion, held that there was no legal ground on which the judiciary could interfere. In some *obiter dicta* remarks, however, the justice stated: "That the act or neglect justifying the removal must have relation to the administration of the office during the term which the officer is serving has been pronounced and followed by numerous executive and judicial authorities. No greater power should be read into the removal power by implication. The application of this principle precludes the consideration of charges dealing with official acts occurring prior to the present term of office or in the transaction of his personal affairs, not within the scope or affecting official action, unless such action amounts to moral turpitude."[18]

Governor Roosevelt refused to give any weight to this opinion, maintaining that it was not binding upon him, since the judge himself so ruled in another part of the same opinion; that he therefore had the right to

[13] *Ibid.*, p. 77.
[14] *The Impeachment Trial of David Butler* (Omaha, 1871).
[15] *Ibid.*, Pt. V, p. 9.
[16] *Proceedings in the Court of Impeachment of George G. Barnard* (Oswego, 1875).
[17] *Ibid.*, Vol. I, p. 159.
[18] *New York Times*, Aug. 30, 1932.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

make his own rules of procedure; and adding that in this case he had decided to consider acts irrespective of the time when they occurred. The governor, however, "differentiated between acts which were known to the electorate when the officer was reëlected and acts which were subsequently disclosed after the beginning of the second term. "It is not common sense," he maintained, "to consider reëlection an endorsement of these acts when they were then unknown to the electorate."[19]

It must again be remembered that the entire procedure was not an impeachment trial, but only a hearing, and that the rules usually governing such trials apply to a hearing only in so far as the individual conducting the hearing desires to be guided by them. On this particular occasion, Mayor Walker resigned from office before the decision of Governor Roosevelt was announced. It is impossible, therefore, to say that the mayor was held for the acts committed during his first term of office, even though his resignation was the result, as he maintained, of unfairness in connection with the hearing. Subsequent events seem to have lent endorsement to the governor's action, for Mayor Walker's failure to run for reëlection, while undoubtedly colored by political reasons, showed a disinclination, on the part of both the mayor and the party leaders, to make the fairness of the hearing an issue.

The doctrine was carried to an even further extent when William Sulzer, governor of New York, was impeached and found guilty of crimes committed, not during a previous term, but before he had taken the oath of office.[20] It was maintained in this case that the governor had, among other things, failed to make a correct and complete return of the sources of his campaign funds while running for the governorship. For these offenses, the court not only took jurisdiction but also removed the accused from office.

A disinterested observer might ask: "Even if this view is constitutionally sound, is it fair?" The lawyer in the defense of Judge Barnard maintained: "It is but fair, therefore, to infer that the intention was to confine the time to the term of office during which the offenses were alleged to have been committed; indeed, any other conclusion would lead to results which could not be sustained. For who can say but that the people knew of the misconduct and these offenses and elected the individual notwithstanding? True, an extreme case might be put of fraud committed on the last day of the term of office, to which office the individual might immediately be reëlected; yet who could say that this was not known to the people?"[21] The people, it would appear, passed upon the constitu-

[19] *Ibid.*, Aug. 31, 1932.

[20] *Proceedings of the Court for the Trial of Impeachment against William Sulzer* (Albany, 1913).

[21] Argument of Mr. Beach in the Barnard case. *Barnard Proceedings*, Vol. I, p. 159.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

tional fitness of the judge when he was reëlected; "and if you review that judgment, you dishonor the cardinal principle upon which the perpetuity of our government rests."[22]

On the other hand, the purpose of impeachment is to remove a corrupt and unworthy official from office and to disqualify him from holding another public office of honor or trust. Unless action is taken, the individual might remain in office; and, as was contended in the Butler trial, "is it reasonable to hold that the mere swinging of a pendulum past a certain hour on a certain day is to determine whether he may be impeached?"[23] "If we hold to this doctrine," said Senator Gronna, "we should adopt a rule which, if followed in future cases, might make it impossible to secure the removal of a totally unfit officer if he succeeded in obtaining a reappointment or a reëlection to office before the facts of the offenses which he had previously committed became known."[24]

The fact that disqualification from future office-holding usually accompanies removal from office seems to substantiate this view, for the purpose of impeachment is not only to remove an unworthy and faithless official but also to make it impossible for him ever to hold another public office. In the Nebraska case of State v. Hill, where the court refused to uphold the impeachment of an ex-official, the opinion of the court stated that "the fact that the offense occurred in the previous term is immaterial."[25] Senator Owen is responsible for the statement that "the time he (the accused) committed the offense is immaterial, if such crimes demonstrate the gross unfitness of such official to hold the great offices and dignity of the people."[26]

Disqualification from office might appear to be a very severe punishment, for the only way the sentence can be removed is by the constitution of a state expressly delegating to a certain body or person the power of removing the punishment pronounced by the court of impeachment. An attempt was made by the legislature of Texas to remove the punishment inflicted by an impeachment court through passing an amnesty act which permitted ex-Governor Ferguson to qualify under it and thereby to remove his disqualification from holding office. The constitutionality of this act was tested when Mr. Ferguson asked the supreme court of Texas for a writ of mandamus which would compel the Democratic state executive committee to place his name on the Democratic ballot in the next primary. The act was held to be unconstitutional by the supreme court because the state constitution both expressly excepted impeachment from

[22] *Ibid.*, Vol. I, p. 190.
[23] Argument of Mr. Estebrook in the Butler case. *Butler Proceedings*, Vol. I, p. 159.
[24] Statement of Senator Gronna. *Archbald Proceedings*, Vol. XI, pp. 1652–1653.
[25] State v. Hill, 37 *Neb.* 80, p. 86.
[26] See *Archbald Proceedings*, Vol. XI, p. 1647.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the powers given to the legislature and excluded it from the pardon power there and elsewhere. "The convention, in excepting impeachment from the pardon power of the government, while at the same time providing the method of pardon in case of treason, evidently intended that an unfaithful official should not again be permitted to hold office in this state."[27]

Other states are not so harsh in their punishment, and Tennessee offers to the individual convicted by the impeachment court the possibility of a reinstatement, since in the state constitution itself there is the following provision: "The legislature now has, and shall continue to have, power to relieve from the penalties imposed, any person disqualified from holding office by the judgment of a court of impeachment."[28]

It would appear that any disqualification that might be pronounced by an impeachment court is permanent unless the constitution of a state expressly stipulates the method of removing the disqualification or else a constitutional amendment is adopted. While the punishment might be considered harsh, yet, as the Texas court said, "impeachment is used only in extreme cases. As a rule, the state is long-suffering before resorting to this constitutional remedy."[29]

In conclusion, we see that at times the impeachment of officials for offenses committed during a previous term in a different office has been sanctioned; at times, an officer has been impeached for offenses committed before his induction into office. To be sure, opinion upon these procedures remains divided. But, except in the instance of the Horton case, there has been virtually unanimous agreement that an officer may be impeached during a second term for offenses committed during his first one.

ROBERT S. RANKIN.

*Duke University.*

**Organization of the Executive Branch of the National Government of the United States; Changes between March 15 and June 30, 1934.** In the December, 1933, issue of the REVIEW, pp. 942–955, appeared a tabular review of the changes in major units of the national government between March 4 and November 1, 1933. In the April, 1934, issue, pp. 250–254, appeared a supplementary list showing the changes between November 1, 1933, and March 1, 1934. The present list indicates the reorganization effected and new units created between March 15 and June 30, 1934. As in previous lists, mention is made of units only specifically authorized by law or established by the President under general authority vested in him.

[27] Ferguson v. Wilcox, 28 S. W. (2nd) 526, p. 534.
[28] Constitution of the State of Tennessee, Art. V, sec. 4.
[29] Ferguson v. Wilcox, 28 S. W. (2nd) 526, p. 534.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

I. *Transfer of activities under general authority of the act of March 3, 1933 (47 Stat. L. 1517):*

Duties in connection with the retirement of employees in the classified civil service transferred from the Veterans' Administration to the Civil Service Commission by Executive Order No. 6670 of April 7, 1934, effective June 6, 1934; effective date deferred until October 1, 1934, by Executive Order No. 6731 of June 5, with the proviso that the transfer may be made effective before that date by order of the Civil Service Commission, approved by the President.

United States Geographic Board abolished and its functions transferred to the Department of the Interior by Executive Order No. 6680 of April 17, 1934, effective June 16, 1934.

Office of Alien Property Custodian abolished and duties transferred to the Department of Justice by Executive Order No. 6694 of May 1, 1934, effective June 30, 1934.

Division of Territories and Insular Possessions established in the Department of the Interior by Executive Order No. 6726 of May 29, 1934, effective July 28, 1934; duties of Bureau of Insular Affairs of War Department relating to Porto Rico transferred to new division.

Centralized disbursing in the Division of Disbursements of the Treasury Department, provided for in Executive Order No. 6166 of June 10, 1933, is postponed by Executive Order No. 6727 of May 29, 1934, as regards offices not heretofore effected until December 31, 1934, with the proviso that transfers may be made effective before that date by order of the Secretary of the Treasury, approved by the President.

Executive Order No. 6166 of June 10, 1933, providing for centralized disbursing by the Division of Disbursements of the Treasury Department, is revoked by Executive Order No. 6728 of May 29, 1934, in so far as it centralizes the disbursements of the War Department, the Navy Department, and the Panama Canal, with the exception of those pertaining to departmental salaries and expenses in the District of Columbia.

II. *New offices created:*

District of Columbia-Virginia Boundary Commission created by act of March 21, 1934 (Public No. 125, 73d Congress).

Office of the Special Adviser on Foreign Trade created by Executive Order No. 6651 of March 23, 1934.

Committee on National Land Problems created by Executive Order No. 6693 of April 28, 1934; this committee was abolished by Executive Order No. 6777 of June 30, 1934, creating the National Resources Board.

Securities and Exchange Commission created by act of June 6, 1934 (Public No. 291, 73d Congress).

Aviation Commission created by act of June 12, 1934 (Public No. 308, 73d Congress).

United States Territorial Expansion Memorial Commission, created

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

by Joint Resolution of June 15, 1934 (Public Resolution No. 32, 73d Congress).

Foreign Trade Zone Board created by act of June 18, 1934 (Public No. 397, 73d Congress).

Federal Communications Commission created by act of June 19, 1934 (Public No. 416, 73d Congress); powers of Federal Radio Commission transferred to Federal Communications Commission, which also has powers over telephone and telegraph lines.

National Archives Extablishment, National Archives Council, and National Historical Publications Commission created by act of June 19, 1934 (Public No. 432, 73d Congress).

National Mediation and National Railroad Adjustment Board created by act of June 21, 1934 (Public No. 442, 73d Congress); the National Mediation Board supersedes the former Board of Mediation, but has wider powers.

Federal Prison Industries, Inc., created by act of June 23, 1934 (Public No. 461, 73d Congress).

National Longshoremen's Labor Board created by Executive Order No. 6748 of June 26, 1934.

Committee for Reciprocity Information created by Executive Order No. 6750 of June 27, 1934.

Federal Housing Administration and Federal Savings and Loan Insurance Corporation created by act of June 27, 1934 (Public No. 479, 73d Congress).

Railroad Retirement Board created by act of June 27, 1934 (Public No. 485, 73d Congress).

National Steel Labor Relations Board created by Executive Order No. 6751 of June 28, 1934.

Committee on Economic Security and Advisory Council on Economic Security created by Executive Order No. 6757 of June 29, 1934.

National Labor Relations Board created by Executive Order No. 6763 of June 29, 1934; this board supersedes the National Labor Board created by informal order of August 5, 1933.

Industrial Emergency Committee created by Executive Order No. 6770 of June 30, 1934.

National Resources Board created by Executive Order No. 6777 of June 30, 1934; this board supersedes the Committee on National Land Problems created by Executive Order No. 6693 of April 28, 1934, and the National Planning Board of the Federal Emergency Administration of Public Works established by that Administration.

Quetico-Superior Committee created by Executive Order No. 6783 of June 30, 1934.

L. F. SCHMECKEBIER.

*Brookings Institution.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

## JUDICIAL AFFAIRS

**The Rôle of the Senate in the Confirmation of Judicial Nominations.** The power of the Senate to advise and consent to presidential nominations of judicial officers has recently been subjected to sharp criticism.[1] In the main, the Senate is charged with misfeasance rather than nonfeasance in the discharge of this function. In other words, proposals to deprive the Senate of this power are not, like proposals to abolish the electoral college, based on alleged failure of the agency to function independently, but rather on its alleged abuse of the discretion conferred upon it. The Senate, say the critics in effect, has judged not wisely, but too well. Accordingly, it is their general disposition to deprecate interference with the executive rather than to devise more effective checks upon him.

An attempt to appraise the merits of these charges should begin with an examination of this general assumption upon which they rest. Of 70-odd nominations to the Supreme Court, 23, or about 35 per cent, have not been confirmed;[2] while of roughly 750 nominations to the inferior courts during the period 1890 to the present, but 45, or about 6 per cent, have similarly failed of approval.[3]

Does this record substantiate the contention that the Senate has been significantly critical of presidential selections? As to the Supreme Court, there would seem to be no question; but the situation as respects the

[1] See, for example, Professor Harold Laski's "Technique of Judicial Appointment," an article reprinted in *Studies in Law and Politics*, pp. 163–180. Much the same point of view is adopted by Professor B. Shartel in 28 *Mich. Law Rev.*, 845–529, 723–738, 870–909. Casual, and not at all complimentary, observations on the Senate's treatment of Supreme Court nominations are frequently made by other writers. For example, on page 312 of Simeon E. Baldwin's *American Judiciary* it is asserted that "a large number of men have thus [failure of confirmation] from time to time been deprived of a seat on the Supreme Court of the United States who would have added to its luster." For a typically unsympathetic view of the criteria employed by the Senate in recent cases, the reader may refer to page 162 of Professor Young's *American Government and Its Work*.

[2] Mr. Charles Warren lists 22 nominations to the Court which were not confirmed during the period 1789 to 1925 (*Supreme Court in U. S. History*, rev. ed., Vol. 2, pp. 756–763). Ogg and Ray list 9 formal rejections by the Senate (*Introduction to American Government*, 4th ed., p. 516). As a matter of fact, failure of confirmation may be attributed to senatorial opposition in all but two of Mr. Warren's cases, i.e., the nomination of William Patterson in 1793 and that of George H. Williams in 1873. Subtracting these and adding the case of Judge Parker, we have a total of 21 *virtual* rejections.

[3] The figures include nominations to judicial positions in the territories of Alaska, the Philippines, and Hawaii, and the District of Columbia. They were compiled under the writer's direction by Messrs. Landaas and Torbenson, of the University of Washington.



LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

inferior courts is not so clear. If the six per cent "mortality" indicated represents the full extent of senatorial interference with the executive, that body would appear to have acted with remarkable restraint. It is to be remembered, however, that the custom of presidential consultation plus senatorial courtesy has operated throughout this period with more or less consistency to predetermine candidacies according to the preferences of individual senators. To what extent, then, is the character of this senatorial influence upon the *making* of nominations germane to the rôle of the Senate in their *confirmation?*

Of course, in so far as the power of confirmation simply "casts its shadow before," i.e., operates prospectively to determine the character of the nomination on the basis of the anticipated reaction of the confirming body, there is no difficulty. The President is only accommodating himself beforehand to the same criteria that will be applied formally when his selection is submitted. But when the executive is required to cater to the prejudices of one or two individual senators as the practical condition for confirmation by the rest, is this also a necessary result of the existence of the confirming power in the Senate? If it is, then objectionable nominations, when clearly influenced by individual senators, constitute a valid argument for depriving the Senate of this power.[4] If it is not, we may deprecate such nominations while favoring a retention of the power itself.

In the opinion of the writer, there are two reasons for adopting the second attitude. In the first place, it is not at all clear that the President would be less influenced by the prejudices of individual senators of his own party were the Senate to have no power to review his selections. Patronage is enjoyed now, and would continue to be enjoyed, by members of both the House and the Senate as the price for party regularity. In all probability, not the character of appointments, but the balance of power in legislation would be affected by the proposed change. The second reason for proposing to consider the power of confirmation on its merits (apart from senatorial influence upon the nomination) is that senatorial courtesy itself seems to be on the decline, even though the custom of consultation, which is supposed to be its corollary, continues in full force.[5]

Together, these reasons justify us in judging the Senate on the character of its differences with the executive in the matter of judicial personnel. In other words, a bad nomination by the executive is no reflection

[4] Professor Kenneth C. Sears condemns "usurpation" by senators of the power to nominate, instancing the nomination of Albert Watson to the district bench in Pennsylvania. 25 *Ill. Law Rev.*, 54 ff.

[5] A conspicuous example is the case of Albert Watson, whose nomination was not confirmed despite the active support of Senator Reed of Pennsylvania.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

upon the Senate. If it is rejected, the Senate should be credited; if it is agreed to, the scales are even. Only if a good nomination is rejected have we evidence against the institution.[6]

What constitutes a good judicial nomination and what a bad one must remain in large part a matter of opinion. It is true that records of various sorts are available upon which to base such opinion, and it is legitimate enough to indict the Senate for rejecting one who, so far as our information about him goes, would have made an admirable judge.[7] But such condemnation must always be tentative and inconclusive so long as we lack any definite knowledge of the considerations presented to the Senate and upon which it acted. This was the case with presidential nominations until 1929.[8] Since then a much more satisfactory type of evidence has been available upon which to appraise the function of confirmation. This consists of both hearings before sub-committees of the Senate committee on the judiciary, and debates in the Senate itself.[9] It is now possi-

[6] The conclusion that senatorial influence upon the making of nominations is not to be taken into account in assessing the significance of confirmation argues that the latter power is of little or no moment as applied to inferior judicial officers on the strength of the figures cited above. On the other hand, the same argument leads us to suspect that the percentage of rejections in this class is likely to increase.

[7] The nominations of Marshall, Taney, and Mathews—to name only a few of the successful candidates—provoked great controversy, and it is not difficult to document these controversies with the arguments pro and con of their contemporaries. The point is that these arguments were not directed solely to the agency charged with the business of confirmation.

[8] The new order was ushered in by the passage of the La Follette resolution of June 18 which amended par. 2 of Senate rule 38. The resolution provides for the transaction of all business in open session unless it is otherwise provided, in the case of a specific nomination or treaty, by majority vote. And even when a closed session is so ordered, any senator is permitted to divulge his vote. See *Cong. Rec.*, Vol. 72, p. 4054. Closely related to this departure is the custom of holding public hearings on judicial nominations. This was inaugurated in 1916, when the name of Louis D. Brandeis was sent to the Senate.

[9] The only case in which the hearing was conducted by the entire judiciary committee was that of Wallace McCammant. A favorable report had been recommitted by the Senate. The only case in which a judicial nomination has escaped committee reference entirely was that of Mr. Justice White, whose elevation to the chief justiceship was directly confirmed. The following hearings will be cited hereafter by reference to the surname of the nominee only:

| | |
|---|---|
| James H. Wilkerson to be circuit judge 7th circuit | 72nd Cong. 1st session |
| Louis D. Brandeis to be assoc. justice Supreme Court | 64th Cong. 1st session |
| Albert Watson to be dist. judge (Penn.) | 71st Cong. 1st session |
| Gunnar Norbye to be dist. judge (Minn.) | 71st Cong. 2nd session |
| W. J. Tillson to be dist. judge (middle dist., Ga.) | 69th Cong. 2nd session |
| Kenneth Mackintosh to be circuit judge 9th circuit | 72nd Cong. 1st session |
| Wallace McCammant to be circuit judge 9th circuit | 69th Cong. 1st session |
| J. J. Parker to be assoc. justice Supreme Court | 71st Cong. 1st session |

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ble to analyze the *milieu* of interests in which the Senate works and the yardstick which it actually applies in confirmation procedure. The staple type of objection employed against judicial nominations as disclosed by this evidence goes to questions of personal character and integrity. Under this general head it is possible to distinguish at least three considerations which may be exemplified as follows:

*Constitutional Defects of Character.* In the hearings on the nomination of A. L. Watson, testimony was introduced to the effect that the nominee "lacked independence of thought and decision." He was charged with being servilely dependent upon, first, the older men in his father's law firm; then, when in politics, upon Governor Pinchot; and later, when on the bench, upon Judge Maxey.[10] This dependence was illustrated in the latter situation by the consistency with which the candidate joined with Maxey rather than with a third judge in the execution of certain orders of an administrative character which it was the statutory duty of the court to make. The resulting "two-judge" orders (Maxey and Watson) were often—so it was alleged—used for purely partisan purposes, e.g., to remove an inspector of elections opposed to the Maxey group.[11]

A variation upon this same theme of constitutional defects of character is represented in charges against Judge G. H. Norbye's nomination to the district bench in Minnesota. These charges were to the effect that the nominee was unfair, arbitrary, and intolerant. In support, it was testified that after consultation with the prosecutor and without consulting defendant's counsel, he had determined that one week was ample time to prepare a defense in a case that actually took thirty days to try.[12] In the case of some of the witnesses, this becomes a general charge of intellectual arrogance.

A third and last defect of character to be urged against a candidate for judicial position is that of downright mendacity. The nomination of J. H. Wilkerson to the 7th circuit affords an unusual example of the application of this test. It was alleged, in effect, that Wilkerson had "double crossed" Al Capone and the district attorney in the course of the former's trial for evasion of the federal income tax laws. It was testified at the hearing that Judge Wilkerson was privy to an arrangement between the U. S. attorney, G. E. Q. Johnson, and the defendant, under which the latter was assured a two-year term if he would plead guilty. Capone did so,

[10] *Hearings*, testimony of M. J. Martin.

[11] Charges of this and a similar nature, such as that the candidate lacks "sufficient stamina, moral fibre, and backbone to make an independent judge," are often conjoined with assertions that he is "arbitrary and intolerant." For example, in the case of Judge Wilkerson it is the latter characteristic that was most emphasized, but both the Vigilance Forum and the Clean Government League accused him of being "weak and unfair." *Wilkerson Hearings*, p. 15.

[12] *Norbye Hearings*, pp. 51–57.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

but was indiscreet enough to tell newspaper men of the arrangement. As a result (so it was suggested), the judge announced that he would abide by no arrangement between the prosecution and the defense as to the prison term. The plea of guilty was then withdrawn; Capone stood trial, and was duly sentenced to eleven years in prison.[13] These facts, in barest outline, afford the basis for the assertion that "Wilkerson's conduct in that case was the most contemptible that I have ever witnessed in municipal, state, or federal courts."[14]

The fight on the nomination of Louis D. Brandeis (now Mr. Justice Brandeis) is destined to be a classic in the annals of Senate confirmation. Mr. Brandeis was assailed from a bewildering variety of angles. In the present connection, it is interesting to note three specific charges of misrepresentation. It was testified, first, that he had misrepresented the attitude of the state board of trade to a committee of the Massachusetts General Court in the matter of certain legislation affecting the Boston Consolidated Gas Company.[15] It was also testified that immediately after he had written an article for *Harper's Magazine* advocating price maintenance, in which it appeared that he was vigorously opposed to chain stores, he accepted employment at the hands of L. K. Liggett for the very purpose of working out a chain store system which would not be in violation of the Sherman Act. Mr. Brandeis' conduct as special counsel in the 5 per cent rate case of 1913 was thus characterized by Mr. Clifford Thorne, counsel for the shippers in the same case: "The gentleman whom you have under consideration was guilty of infidelity, breach of faith, and unprofessional conduct in connection with one of the greatest cases of this generation."[16]

*Failure to Observe Ethical Standards in Professional Conduct.* The sort of objection involved under this head invites attention to the alleged violation of more specialized group *mores* than those summarized above. The conduct is reprehensible because the nominee is a member of a class having peculiar responsibilities. It still falls short, however, of the clear infraction of any rules which would expose the guilty party to any sort of organized discipline. The most interesting objection concerns the conduct of a lawyer who gives expert assistance to a client whose interests are adverse to those of the government. In the specific instance cited, it is the government as a tax collector that is involved. During the war, the government purchased a large stand of spruce in Lincoln county, Oregon. When

[13] *Hearings*, testimony of Mr. Johnson, pp. 237–249.

[14] *Hearings*, p. 249, testimony of Arnold B. Larson, at the time a reporter for the United Press.

[15] *Hearings*, pp. 1308–1316, testimony of Edward R. Warren. See also Senator Chilton's comment upon the charge. *Sen. Rep.* No. 2, pp. 35–37 (64th Cong., 1st sess.).

[16] *Brandeis Hearings*, p. 8.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the war ended, the government proceeded to liquidate. The Pacific Spruce Corporation was organized to acquire this interest from the government. This it did under a contract which fixed a price of two million dollars to be paid over a ten-year period, and provided further for the retention of title by the government during this period. The Supreme Court subsequently held that the property was not taxable by Lincoln county. The claims committee of the Senate, to which a bill to reimburse the county was referred, investigated the whole situation. Its report termed the contract a "reprehensible conspiracy." Wallace McCammant had been retained by the corporation and admittedly drew up both its articles of incorporation and the contract in question.

The representation of parties in adverse interest is a distinct violation of legal ethics.[17] The conduct of Mr. Brandeis in accepting briefs for the Equitable Life Assurance Company while retained by the Equitable Policy Holders Association was urged upon the Senate committee as constituting such violation. Something of the same sort was attempted to be made of the dual capacity assumed by the same nominee in the case of one Patrick Lennox. Brandeis represented certain creditors of Lennox, and also, with the former's assent, he agreed to see that the latter "got his legal rights and no more." On Mr. Brandeis' advice, Lennox made an assignment for benefit of creditors, Brandeis' then partner becoming the assignee. When, later, the creditors, represented by Brandeis, moved to force Lennox into bankruptcy, the assignment was relied upon as an act of bankruptcy.[18]

Other evidence calculated to reflect upon the intellectual integrity of the now highly respected member of the Supreme Court concerned his alleged use of confidential information acquired as a director of the United Shoe Machinery Company to document a spirited attack upon the tying clause provisions of machinery-leasing contracts. This attack was made some three years after resigning his directorship when he was acting for lessees under such contracts.

The ethics involved in representative appearances before congressional investigating committees presents another fairly distinct question bearing upon the general problem of professional ethics. It appeared that during the investigation of Secretary Ballinger's administration of the Department of the Interior[19] Mr. Brandeis was retained by *Collier's*

[17] Code of Ethics, American Bar Association. Of course, this is conditioned upon non-disclosure of the relationship to all parties concerned. In neither of the cases cited did the evidence indicate that Mr. Brandeis had concealed his status. Nevertheless, this is the general principle relied upon.

[18] See the different constructions placed upon these facts by the majority and minority committees. Senate Report No. 2, 64th Cong., 1st sess., Part 1, pp. 18–26; Part 2, pp. 19–20.

[19] Senate Doc. 719, 61st Cong., 3rd sess.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

*Magazine* at a fee of $25,000. *Collier's* had contributed to the scandal by printing the story of L. R. Glavis, chief of the field division of the General Land Office, charging Ballinger with several varieties of incompetence. Glavis was thereupon dismissed. Brandeis' appearances before the committee were ostensibly in his behalf; the *Collier's* connection was not disclosed to the committee.

*Failure to Observe Ethical Standards in Official Conduct.* The notion of disinterestedness in the position of the judge as respects litigation before him was brought to bear during the hearing on the nomination of Judge Wilkerson. Senator Glenn was admittedly instrumental in securing Wilkerson's elevation to the bench, but the latter never asked to be excused from hearing cases brought before him by Glenn's law firm. This was unfavorably contrasted with Judge Woodward's voluntary refusal to act under similar circumstances.[20]

A final category of blame due to breach of professional ethics involves what may be called, for purposes of distinction, "political ethics." According to Senator Johnson, Wallace McCammant was conspicuously remiss in his failure to observe the simple technique of a national convention delegate. It is true that the vagaries of the Oregon primary law somewhat complicated the issue, but the following bare facts seem to have been established: McCammant submitted himself as a delegate in the Republican primaries; Johnson carried the state in the general primary election; the delegation was considered pledged to him;[21] McCammant "bolted" the popular choice at the convention.

The debates in the Senate on the nomination of Charles E. Hughes to the chief-justiceship were in some phases reminiscent of the campaign of 1916. Hughes had allowed himself to be drafted from the bench to run against Wilson. A decade or so later it was proposed to restore him as chief justice. Both of these changes in status exposed him to criticism. Senator Norris, one of the most forthright objectors to Hughes' second appointment, did not undertake to establish that the first shift was *contra bono publico*. He relied upon the second: "I was not one of those who criticized Mr. Hughes for resigning from the Supreme Court bench in order to become a candidate for president of the United States. I freely concede that a judge has an honorable right to leave the domain of the judiciary and enter political life. But after he made the campaign for a

[20] Both judges were sponsored by Senator Glenn. The charge in question was presented by Senator Blaine to Senator Glenn while the latter was giving testimony before the Senate committee. *Hearings*, p. 19.

[21] Under the Oregon statutes, two methods of getting a delegate's name on the ballot were possible. That employed by McCammant did not place him under a legal duty to vote for the state-wide popular choice for president. On the other hand, McCammant had appealed to the voters in language construed by his senatorial opponent as a promise that he would vote for the popular choice.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

higher political office, he ought not to be by political power put back again on the bench which he voluntarily left to enter the political world."[22]

Before leaving the subject of character objections, something should be said of political activity and judicial appointments. A "political" career is not in itself prejudicial to a candidate under scrutiny by the Senate. As a matter of fact, 28 of the 70 persons nominated to the Supreme Court had been active in politics prior to their appointment. It is true that the American system, unlike the British, affords a basis for distinguishing between "partisan" activity and "public" activity, but no occasion for its application has presented itself in the materials available for this study.

Partisan motives *for* the appointment, on the contrary, have frequently been urged as a reason for rejection. This was illustrated in the recent case of the nomination of Judge J. J. Parker to be associate justice of the Supreme Court.

On March 13, 1930, James M. Dixon wrote Walter Newton (then a secretary to President Hoover) in part as follows: "I speak as a native-born North Carolina Republican. North Carolina gave President Hoover a 65,000 majority. In my judgment, it carries more hope of future permanent alignment with the Republican party than any other of the Southern states that broke from their political mooring last year. If the exigencies of the situation permit, I believe the naming of Judge Parker to the Supreme Court would be a major political stroke."[23]

Apropos of this letter, Senator McKellar inferred, first, that such advice had been instrumental in determining Parker's selection; and second, that the political considerations represented were decidedly improper. It is difficult to see how the Senate could consistently apply such criteria to inferior court appointments and at the same time observe the custom of senatorial courtesy. As has been indicated, this institution usually operates to secure the integrity of party lines in the field of judicial patronage.

*Violation of Law.* A second distinct category of objections is represented in the introduction of evidence calculated to establish a breach of existing law. It is true that the burden of technical proof is not assumed, but there is no doubt that the sort of conduct implicated is criminal. Thus, testimony that a nominee has appointed personal friends to outrageously lucrative receiverships can hardly avoid a charge of corruption. In the case of Judge Wilkerson, the principal beneficiary of this sort of largess was alleged to have been his former law partner, chief political sponsor, and life-long associate—Edward J. Brundage.[24] The C. M. & St. P. re-

[22] *Cong. Rec.*, Vol. 72, p. 3378 (Feb. 11, 1930).

[23] *Cong. Rec.*, Vol. 72, p. 8040 (April 30, 1930).

[24] In no case does the writer purport to evaluate the evidence cited by omitting

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ceivership appears to have netted Mr. Brundage $224,000—$4,000 per month plus $100,000 final payment. The same individual's appointment by Wilkerson in the Boone Woolen Mills case was vacated on appeal to the Supreme Court, on which occasion Chief Justice Taft characterized the appointment as "improperly obtained." An action had been brought in the superior court of Cook county for the purpose of getting a receiver appointed for the above mills. Postponement of proceedings in the state court enabled the corporation to secure the appointment of Brundage by Judge Wilkerson. When the receiver subsequently appointed by the state court applied to Wilkerson for an order requiring Brundage to turn over the properties involved, Wilkerson refused on the ground that the case pending before him was a different case than that before the state court. As noted above, this construction of the situation did not convince the Supreme Court.[25] Numerous other instances of the same sort were cited of which no effort has been made to single out the most damaging.[26]

A different type of misconduct, which likewise amounts to a charge of crime, may be described as manipulation of a grand jury to prevent the return of indictments. This, it was charged, Judge Norbye had accomplished in the Ten Thousand Lakes Fur Farm Swindle case. The background of this case was tersely described by an objector who wrote the committee that "it was established that $600,000 of paper rats were sold to a lot of suckers by using the power and influence and prestige of officials of the state of Minnesota to do it." The failure of the enterprise led the public to expect action from the grand jury over which Judge Norbye presided. The misconduct charged consisted of, first, a failure to excuse Governor Christianson's private secretary who was a member of the jury; second, appointment of a millionaire grain merchant—a known "enemy of the farmer," as foreman.[27] The subsequent impotence of the jury was ascribed by several of its members to the machinations of these two members, plus hampering instructions from the judge which were intended to discourage investigation.

---

the "other side." In this particular case, however, it is interesting to note that a special committee of the Chicago Bar Association refuted the above statements *seriatim*. The committee concluded: "We have discovered no facts indicating that in the initiation and conduct of the St. Paul receivership Judge Wilkerson was actuated by motives not in keeping with the highest standards of judicial conduct." *Hearings*, pp. 226–228.

[25] *Wilkerson Hearings*, pp. 271 ff.

[26] For example, the Chicago St. Railway receivership. *Ibid.*, p. 278.

[27] Under the statutes of Minnesota, the judge may appoint the foreman of a grand jury, or he may leave the selection to the jury itself. Not only the character of the appointment, but the exercise of discretion at all in the premises, was objected to. *Norbye Hearings*, p. 55.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

It is not so clear that the third and last sort of misconduct treated under this head would expose the guilty party to criminal prosecution. It may be phrased generally to include the abuse of official authority for partisan purposes. It is assumed, moreover, that attainment of the partisan purpose redounds to the personal advantage of the user of such authority. The authority abused in the case of Judge Watson was the authority to recommend parole for prisoners tried and sentenced before him. This he was alleged to have exercised for political reasons shortly before election time.[28]

Testimony that the nominee had resolved election cases on the same basis, i.e., as the price for personal support, were also made. Judge Tillson, too, was charged with having used his appointing power to the same end.[29]

*Incompetence, Inefficiency, Lack of Objective Qualifications Generally.* The most obvious test to employ in evaluating the ability of one who has been a judge is the technical quality of his decisions. In the hearings on the Wilkerson nomination, Professor W. W. Cook was quoted as authority for the assertion that not a single decision cited by Wilkerson in support of his views in the labor injunction case of 1922 was in point, and "that the various quotations he employs, or upon which he relies, are, so far as the present case is concerned, merely more or less weighty *dicta*."[30]

A test similarly applicable to judges raises the question of what may be called their "batting average" with appellate tribunals. As applied to the judicial career of Mr. Watson, this test would appear fairly conclusive: Judge Buffington of the Third Circuit testified[31] that Watson was reversed in eight cases out of ten appealed.

A charge that the candidate lacks "adequate professional training palpably reflects upon his competence. Both academic equipment and practical experience at the bar would be relevant here. The first has never been mentioned. In the case of Judge Tillson, the second took the form of an assertion that the candidate had never been a "trial lawyer."

An interesting test, of which more systematic use is likely to be made in the future, is the endorsement of the nominee by the local bar. Figures introduced during the hearings on Judge Watson indicated that a decided majority of the local practitioners (147 out of 225 in the district) actively supported his opponent. Only 61 supported Watson.[32]

[28] *Watson Hearings*, p. 33.

[29] *Tillson Hearings*, p. 3. The category of criminal charges can hardly be made exclusive because the offense is not specified independently of the witnesses relied upon to establish it, nor are the latter held to any accepted rules of relevancy. This will be commented on at more length presently.

[30] *Hearings*, pp. 75–78, reproducing an article appearing in the *Yale Law Review* for December, 1922.

[31] By letter to Senator Borah. *Hearings*, p. 75.

[32] The reliability of such polls of professional opinion, of course, depends upon a

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

No formal limitations on the appointing power in the matter of age, residence, or citizenship exist. Each of these has, however, been urged as relevant. Senator Dill, for example, felt that Mr. Hughes was too old: "I am impressed with another fact. Mr. Hughes is no longer a young man. The youngest man ever appointed to the U. S. Supreme Court was Joseph Story. He was 32 years of age when he was appointed. The oldest man ever appointed, previous to the appointment of Mr. Hughes, was Justice Lurton, who was appointed by President Taft. He was 65. I understand Mr. Hughes is nearly 70. I have been rather wondering why at that late age in life he should be called back. . . ."[33]

The feeling that district appointments should not be conferred upon non-residents finds expression in an objection to Judge Tillson's candidacy on the ground that he was not a resident of the district for which he was appointed at the time the district was created. It appeared that he lived four miles outside of it. Such objections are interesting in their application to a possible bureaucratic tradition in the federal judiciary. To the extent that the objection has any force, the growth of such a tradition is manifestly impossible.

*Economic and Political Philosophy.* A final category of considerations presented to the Senate in the discharge of its function of confirmation relates to the attitudes of candidates toward public issues. And, as this may easily be pushed further to involve fundamental points of view, it is not too much to say that opposing philosophies are at stake.

The most concrete aspect of this matter of senatorial concern is the class bias of the nominee. It is a fair deduction from the results that the active opposition of organized labor is the most fatal objection that can be raised. In the case of the Wilkerson nomination, such objections were tellingly presented by Donald Richberg on behalf of the Railway Labor Executives Association, composed of the heads of the 21 standard railway labor organizations. Mr. Richberg charged, in general, that Wilkerson had been throughout both his professional and judicial career a partisan advocate of employers. Specifically, most of the charges here, as well as in the other cases, related to the use of the injunction in labor disputes.[34]

number of factors. The bitter controversy over the Norbye nomination was preceded by a canvass of the Minnesota bar on the name of Senator Schall's choice, Mr. Ernest Michel. It was contended that this poll was instigated by Attorney-General Mitchell and accompanied by the latter's severe condemnation of the candidate; and also that the form of the questionnaire was prejudicial. Of 1,500 ballots, the above candidate received 293.

[33] *Cong. Rec.*, Vol. 72, p. 3500 (Feb. 12, 1930).

[34] The most important of the cases relied upon by Judge Wilkerson's opponents was what has become popularly known as the Daugherty injunction case, involving proceedings instituted by the Attorney-General in 1922 to break the great railway strike of that year. These are reported in 283 Fed. 479, 286. Fed. 228, 290 Fed. 798. See *Wilkerson Hearings*, p. 43 ff.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

On this score, Mr. Richberg emphasized not only the prejudicial effects upon labor of this weapon, but also the positive illegality of the court's action under the circumstances. The latter was alleged to consist in, first, a misapplication of the anti-trust acts to labor unions in the face of the qualifications introduced by the Clayton Act,[35] and second, a misapplication of the injunctive process of a single federal district court to the entire country.[36]

In another injunction case, the same judge was asserted to have used such vague and inconclusive language in restraining strikes by electrical workers as to violate the settled law requiring injunctions to be clear and intelligible. Incidentally, this also involved a remarkable stretching of the commerce power, because the prejudicial practice complained of by the workers was the use by the Western Union of non-union labor in the installation of call-boxes in local buildings.[37]

Judge Kenneth Mackintosh was likewise attacked by organized labor, his disposition of two cases in particular being cited by E. J. Tracy of the A. F. of L. as evidence that "Mackintosh could not rightly interpret the spirit of the newer labor laws being enacted by Congress." In both of these cases the complaint was that the nominee had "blindly followed precedent."[38] The first of them involved the legality of picketing activities; the second, an application of the highly controversial doctrine of "conspiracy" to a secondary boycott. There is some justification for refusing to regard the law of torts as "settled" in either case, but this is hardly justification for regarding the law as "wide open" for discretionary interpretation by an inferior court. It is doubtful whether labor's objection to Mackintosh was really accompanied by any reflections on the strict legality of the conduct complained of.

There were certainly no implications of this kind in labor's assault on the Parker nomination. It was conceded that the latter's opinion in the famous Red Jacket Coal case followed precedents established by the Supreme Court. The labor leaders—led by William Green—were committed to the establishment by the courts of the nation of a "labor rights policy" in exactly the same way that they were interested in the congressional adoption of the same policy. Mr. Green did, indeed, assert that Judge Parker had "gone far beyond the doctrines laid down either by the Supreme Court of the United States or the circuit court of appeals for the fourth circuit"; but it could hardly be stated that his decision

[35] The decision of the Supreme Court in Michaelson v. U. S., 262 U. S. 42, was cited to sustain this charge of illegality.

[36] Robinson v. Railway Labor Board, 268 U. S. 619, decided that, in the absence of specific statutory provisions to the contrary, process of a federal court is limited to the district for which it is organized and established.

[37] *Wilkerson Hearings*, 78. [38] *Mackintosh Hearings*.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

was directly opposed to established law. Senate leaders made it perfectly clear that opposition to the Parker nomination was based upon opposition to the "yellow-dog" contract which the nominee had upheld: "The nomination of Judge Parker for the supreme bench of the United States has brought up for consideration a contract popularly, and not without cause and not without reason, styled the 'yellow-dog' contract."[39]

From this concrete application of economic philosophy to the specific institutions of organized labor, we pass to the more generalized ground of protest that the nominee believes in "property rights as opposed to human rights." It was upon this theme that members of the Senate were most articulate: "I have no quarrel with Judge Hughes as to personal character. I grant that he is a man of personal integrity. I take no issue with the senator from Illinois (Glenn) as to Justice Hughes' great ability as an advocate at the bar. But, Mr. President, the man who is personally honest, and yet who is driven by an honest conviction to certain economic views, is a much more dangerous judge and a much more dangerous man in this or any chamber than the weak or vascillating public servant."[40] The same mistrust of ability coupled with disliked opinions lies behind Senator Dill's remarks on the same day: "Mr. Hughes is a man of quality, a man of great ability. He honestly believes in the doctrine of property rights as superior to human rights under the law he has so ably advocated. That makes him all the more effective and from my viewpoint all the more objectionable." One could hardly want a more explicit avowal than that of Senator Wheeler, who, after citing Mr. Hughes' record on New York state social legislation[41] exclaimed: "I am voting against him because of the economic views he holds."

Very much the same theme is implicit in condemnation of associations and clientele. In Mr. Hughes' case, it was asserted that these had undemocratically conditioned the nominee. Senator Norris based his objections on this ground: "Perhaps it is not far amiss to say that no man in public life so exemplifies the influence of powerful combinations as does Mr. Hughes. Since he retired from the bench and made his unsuccessful campaign for the presidency, he has had a great career before the Supreme Court of the United States where he formerly sat as one of the judges. During the last five years he has appeared in 54 cases before the Supreme Court. Almost invariably he has represented corporations of almost untold wealth. There is no doubt that in many of these

[39] Senator Borah, *Cong. Rec.*, Vol. 72, p. 7930 (April 29, 1930).

[40] Senator Tom Connally, *Cong. Rec.*, Vol. 72, p. 3574 (February 12, 1930).

[41] For example, veto of the teachers' bill providing for equal wages for women and men teachers; the message to the N. Y. legislature against the income tax; the veto of the Coney Island nickel fare legislation, the two-cent-a-mile bill, and the full crew bill.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

he has been employed because he had formerly been a member of the Supreme Court and it was at least believed by his wealthy clients that this fact would have a tendency to secure favorable decision from that high tribunal . . . During his active practice he has been associated with men of immense wealth and lived in an atmosphere of luxury which can only come from immense fortunes and great combinations."[42]

The early associations of Mackintosh were claimed to have established the same bias: "Born to a big estate, he never knew what it was to struggle for a living and consequently knows little of the struggles and suffering of the masses."[43]

What may be called a political, as distinguished from an economic, philosophy has also received attention at the bar of the Senate. When one considers the prominence and variety of Mr. Hughes' political connections, it is not surprising that opponents found much to object to. The character of our federal union continues to furnish material for controversy. In the case of Mr. Hughes, it was his opinion in the Shreveport rate case, which, according to Senator Brookhart, disclosed an unfortunate lack of sympathy with "states' rights."[44] On the other hand, Mr. Hughes' defense of Truman H. Newberry was cited by Senator Borah as evidence of a too great solicitude for states' rights.[45]

It is difficult to state the issue of "preparedness" with much precision, but Secretary of State Hughes undoubtedly gave its proponents something of a shock in his Washington Conference position on reduction of armaments. This point of view was articulate in the remarks of Senator McKellar, who credited Hughes with having agreed "to scuttle the greatest fleet America ever had."[46]

The theory of separation of powers, too, may afford the basis for attack. A rigid application of this theory is responsible for the Supreme Court's refusal to tolerate congressional investigations of administration. Mr. Hughes apparently acted on this theory in opposing senatorial investigation of charges of maladministration in the Treasury Department. Senator Glass regarded this position with extreme disfavor.[47]

The foregoing survey of the actual conditions under which a very significant function of government is discharged affords the basis for certain conclusions of a relatively objective character.

In the first place, the nature of the influences brought to bear on the Senate in the consideration of judicial nominations demonstrates its

[42] *Cong. Rec.*, Vol., 72, p. 8182 (May 2, 1930).
[43] *Mackintosh Hearings.*
[44] *Cong. Rec.*, Vol. 72, p. 3435 (February 12, 1930).
[45] *Cong. Rec.*, Vol. 72, p. 3249 (February 11, 1930).
[46] Cong. Rec., Vol. 72, p. 3588 (February 13, 1930).
[47] *Cong. Rec.*, Vol. 75, p. 3581 (February 13, 1930).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

complete incapacity to discriminate between candidates on the basis of personal integrity. As already remarked, this is a staple type of objection aired before Senate committees, but it needs no considerable reading between the lines to see the utter futility of most of the objections raised. Character objections resolve themselves into one or the other of two things. Usually they mask a real opposition to the candidate's political and economic views. At other times, they furnish a vehicle for the expression of personal spites. In not one of the cases cited did a reflection upon the personal integrity of a candidate represent a dispassionate judgment as to his character. This was amusingly illustrated in the course of the hearings on Watson. One lady, whose testimony was expected to be particularly damaging, when pressed down to the facts, admitted that she knew nothing against the candidate except that he was a political wet. She was called as a fellow townsman and neighbor; she left identified as an officer in the local W. C. T. U.

The factitious nature of "character" testimony (especially when disparaging) is beautifully illustrated in the Brandeis hearing. Had everything charged to Brandeis' moral account been true of a different (otherwise satisfactory) nominee, it is hardly conceivable that the items would have been considered worth mentioning at all. But Brandeis was a rank "outsider" as respects the group that opposed him. His cultural background was different; his methods irritated them; and his successful advocacy of doctrines which they opposed alarmed them. These were the real objections of many who "gravely doubted" his honesty.

At the other extreme may be noted those cases in which the objection is palpably inspired by a personal pique magnified into serious proportions by hurt pride. It can hardly be doubted that Senator Johnson's opposition to Judge McCammant was principally due to the harsh things McCammant had said about him; nor is there any doubt that Senator Schall's opposition to the Norbye candidacy was largely due to certain highly uncomplimentary remarks which Norbye was supposed to have made about Schall at a private club.[48] Typical of the witnesses called to give testimony of this character was the obscure grand-juryman whose well-meant but highly officious letters to his judge were simply ignored by the latter. This omission was naturally fatal to Norbye's reputation for probity, in the opinion of the witness.[49] Then there was the case of a Mr. Spelling, called to testify to the generally "unscrupulous" character

[48] The very personal character of Schall's objections was frankly admitted by the senator: "I personally object to his confirmation, which would be obnoxious to me and place in my state my belittlers and slanderers and defamers of my character. Mr. Norbye is, and has been, my personal political enemy. . . I ask that the time-honored custom of the Senate be enforced, and that your committee and the full judiciary committee reject his confirmation." *Norbye Hearings*, p. 85.

[49] *Norbye Hearings*, p. 58.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of Mr. Brandeis. It seemed that Mr. Spelling had once sent a brief to Mr. Brandeis for commentary. This was returned with liberal marginal notations of "absurd," "unfair," and the like.

A rather more complicated instance of the same sort seriously prejudiced Brandeis' chances of confirmation. The complaining witness, Mr. Clifford Thorne, was chief of counsel for the shippers in the famous five-per-cent-rate-increase case before the Interstate Commerce Commission. As a thoroughly conscientious advocate, he came to identify the interests he represented with the general public interest. When, therefore, Brandeis was appointed by the Commission to develop the public's side of the case,[50] he was welcomed as an ally by Thorne. At the final hearing, Brandeis assumed a point of view inconsistent with that advocated by Thorne and more favorable to the carriers.[51] The latter was shocked and bitterly disappointed; he felt that Brandeis had "thrown the case." This construction of the situation seems never to have occurred to the other participants, but Thorne continued to cherish his sense of hurt.

The flimsiest rationalization of opposition actually based on disagreement with the candidate's views on public questions takes the form of charges that he "lacks judicial temperament." This is clearly illustrated in the case of Judge Mackintosh, who had expressed himself forcibly on the necessity for speedy punishment of those responsible for the Centralia "massacre."[52] He also wrote the decision of the supreme court of Washington disbarring one Elmer Smith, who had defended the "reds" charged with the crime. The lack of judicial temperament consisted in being on the "wrong" side of what had become an essentially political issue.[53]

The fact is that the Senate lacks both the facilities for discounting and the disposition to discount such evidence. The hurdle of senatorial confirmation contributes little or nothing to the basic morale of federal administration.

It is possible that an inquiry into charges of crime demands somewhat different qualities of the agency acting than an inquiry into questions of personal character and reputation. For this reason, Senate confirmation must be assessed with this type of objection in mind.

Here we are concerned with a function which places a premium upon

[50] Brandeis detractors emphasized the fact that the shippers were weaker, as respects legal talent, than the carriers, and that accordingly Brandeis was really commissioned to help them. See Cummins, *Minority Report*, p. 301.

[51] Brandeis concluded that "the net operating revenues of the railroads are smaller than is consistent with their assured prosperity and the welfare of the community."

[52] In a letter to George Dysart, the local prosecutor.

[53] Oddly enough, Mackintosh's "tight-rope walking" in the Wickersham report was also offered as proof that he lacked judicial poise!

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

formality of procedure and absolute impersonality on the part of the examining body. It is the Senate as a court, as contrasted with the Senate as an executive council. The former conception of its function has often appealed to the proprieties of individual senators in the hearings. But it is very indifferently approximated in actual practice. True, the manner of the courtroom is occasionally adopted by senators with a legal background, but the general effect is incongruous and never effective in preventing the introduction of completely irrelevant testimony.[54]

It is on such occasions that the proceedings take on the character of a legislative investigation rather than a legislative hearing.[55] Of course no one will deny (with the memory of Tea-pot Dome still fresh in mind) that legislative investigations are occasionally fruitful in uncovering evidence of criminal misconduct, but it does not appear that they have ever been so fruitful when attempted in the course of confirmation proceedings. Their initiation and prosecution always depend on political animus. This is unfortunate, but apparently constitutes a necessary dynamic when far-flung corruption invades administration. It is not necessary, however, as a preliminary to the choice of personnel, and it certainly is not practicable as employed in the past.[56]

A third basis for evaluating the Senate as a confirming body is presented in the consideration given to various tests of an objective character. The candidate's technical ability to handle the job is obviously relevant, but the practice of the Senate assigns it no special method of proof nor weight in final determination. On the whole, there is a decided lack of curiosity about this type of qualification and not much disposition to be critical of the evidence submitted. Endorsements by professional colleagues are admitted and filed without much inquiry as to who the endorsers are or their relation to the nominee.

Technical competence is never likely to be tested satisfactorily by a democratically constituted body. This is due not so much to a lack of technical knowledge as to habit. The yardstick habitually applied to

[54] The Brandeis hearings were enlivened by clashes between Senators Walsh and Clark on the admissibility of evidence—that is, on the rules to be followed—but without seriously affecting the liberty of witnesses to say, or of senators to hear, anything that came into their minds.

[55] A legislative investigation always involves the use of compulsory process to compel the attendance of witnesses and production of papers. See M. E. Dimock, *Congressional Investigating Committees*. In the Brandeis hearing, the presence of several witnesses was secured by subpoena, and they were regularly sworn. Subsequent practice in the above particulars shows no uniformity.

[56] It may be observed that none of the judges against whom impeachment proceedings have been brought seems to have encountered any difficulty in having his name confirmed by the Senate. The present investigation of judicial administration in Illinois is reported to involve Judge Woodward. His nomination was not challenged in the Senate.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

public matters by politicians is the voting unit. This inclines them to discount heavily the value of any peculiar advantages not enjoyed by the average voter. Experience as the basis for competence is intelligible; education is not. It is noteworthy that not once in the discussion of candidates for judicial position was the matter of educational background even mentioned.

The final class of objections merits special attention for two reasons. First, because there is a general disposition to deprecate considerations of this type in selecting administrative personnel. Second, because (perversely enough) they are being introduced more and more frankly as respects federal judgeships. We have already remarked the surreptitious introduction of political questions under the guise of character objections, and of course they are present in one form or another throughout the proceedings. But because as character objections they are trivial, it cannot be assumed that they are trivial *per se*. What we have to consider now is the relevancy of politics and economics to the selection of judges when these considerations are frankly avowed.

If they *are* relevant, then the case for senatorial confirmation is much stronger than has been assumed, because while the Senate may not be the proper forum for *selecting wisely*, *adjudging lawfully*, or *measuring accurately*, it is an admirable medium for *reflecting truly* the state of public opinion. And it is this latter function which is emphasized in the disposition of recent nominations.[57]

Whatever may be said against politics in administration generally, it is neither possible nor desirable to avoid it in judicial administration where three conditions exist. These are, first, the doctrine of judicial review; second, a "liberal" theory of the judicial function; and third, a period of political transition. All of these conditions exist today, with the result that it is practically impossible to distinguish between judicial contributions to the governmental process and legislative contributions. It is accordingly perfectly logical to demand that judicial personnel be subjected to the same test of fitness as legislative personnel.

By "judicial review" in this connection the writer means the general principle that an act of a representative assembly may be invalid for the purposes of a judicial agency acting under the same constitutional authority. The presence of judicial review alone is not sufficient to produce a situation in which the judgment of a court is simply substituted for the judgment of a popular assembly. It is quite compatible with an accepted view of the judicial function which distinguishes it

[57] The following illustrate the sort of "interests" represented in the hearings: American Federation of Labor, Association for the Advancement of Colored People, Veterans of Foreign Wars. A judicial nomination provokes the same sort of reaction as the introduction of a public bill.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

from the legislative by a reliance upon "conceptual analysis" in reaching decisions.[58]

But when to judicial review is added a theory of "free" decision, as conspicuously exemplified in the writings of the sociological jurists,[59] we have a situation which is potentially susceptible of the above construction. It is saved from reaching it only when the demands of government upon law are at a minimum—when, that is, the legislature is not impelled by changing circumstances to radical measures of relief.

In the absence of such demands, certain traditional elements in the judicial process operate to insure a distinction between it and the legislative, despite the absence of conceptualism in the law. These are professional conservatism and *stare decisis*. These do not prevent law from being "made" by the judges; but they do prevent its being made by any particular set of judges in the same way that it is "made" by a particular session of the legislature. When, however, change is in the air, *stare decisis* furnishes no guide posts, and conservatism becomes a political interest rather than a stabilizing factor. At such times, fundamental postulates of the legal order are in a state of flux. This greatly widens the sphere of discretion enjoyed by all courts. This is the justification for labor's objections to the decisions of "inferior" court judges, even though they can be defended on the ground of *stare decisis*.

The net result of these developments is substantial identity between the sort of considerations to which particular legislators address themselves in dealing with public questions, and the considerations particular judges act upon. This means that the Senate should not be deprived of a substantial voice in the selection of judicial personnel. On the other hand, it should limit its consideration to the representative aspects of a given candidacy. No consideration whatever should be given to aspersions on character, charges of criminal misconduct, reflections on competency. This result might be achieved by certain modifications in legislative procedure plus the institution of an authoritative information service.

[58] This was Marshall's great contribution to the dialectic of American public law. The logical conception with which he worked in determining institutional boundaries was that of *power:* given the *power* to legislate on a given subject, questions of the manner of its exercise ("reasonableness") are for the legislature. See Boudin's reference to this in his discussion of Mr. Justice Field's dissenting opinion in Munn v. Illinois, *Government by Judiciary*, Vol. II. Of course this use of absolute concepts can be looked at now as the "basic myth of the Constitution" (C. L. B. Lowndes, in 47 *Harvard Law Review* 631); but it had a certain effectiveness before it was generally recognized as a "myth."

[59] Mr. Justice Cardozo frankly admits the identity of the legislative and judicial functions. It is true that he applies this only to the "gaps" in the law, but this is just what certain general constitutional provisions represent to both the legislature and the courts (*Nature of the Judicial Process*).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

1. Public hearings on a given candidacy would be ordered only upon a showing to the chairman of the committee that substantial political interests were opposed. At such hearing, the candidate would be entitled to be heard and his political opinions made a fair subject of controversy; the attempted introduction of other considerations would be out of order.

2. The Department of Justice would be required to transmit to the committee in the case of all nominations (a) the report and/or recommendation of a judicial council representative of the federal judges; (b) the report and/or recommendation of that organization of the bar most nearly approximating, in area covered, the jurisdiction of the post to be filled.

The objective of both of these requirements is to "build up" for judicial nominations much the same sort of safeguards against legislative excesses that have already been achieved in the case of appropriations for current expenses. For this, the main reliance must be upon "self-denying" rules of the legislature itself; for the rest, upon administrative articulation. The legislature must "insulate" itself from extraneous pressures and influences at the same time that it provides authoritative channels for expert advice.

KENNETH C. COLE.

*University of Washington.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

**Newfoundland Reverts to the Status of a Colony.** In February, 1934, Newfoundland, which proudly boasts that she is "Britain's oldest colony," which has enjoyed responsible government since 1855, and which has been ranked by the Statute of Westminister as one of the Dominions of the British Commonwealth of Nations, voluntarily reverted to the status of a crown colony governed by a commission responsible to Whitehall. The event is without precedent in the history of the Empire. While certain West Indian colonies which have enjoyed representative assemblies have voluntarily given up their elected legislatures,[1] no colony which had attained responsible government has ever before renounced it. The incident is sufficiently unique to be of interest alike to students of the history of the British Empire and of political science in general.

The immediate cause of the changed status of Newfoundland was the financial bankruptcy which stared the island in the face. An enormous public debt which had more than doubled since the War, the fall in the price of fish (Newfoundland's principal export), declining revenues, a gap in 1932–33 of $3,253,776 between public income and expenditure, and the inability of the government to raise further loans in London or Montreal or New York, had brought the island to its knees. Interest payments on the Dominion's bonds were met in January, 1932, only by advances from the Canadian and the British governments, and in July by a further advance from the British government. A new government elected in the island in June, 1932, made heroic efforts at retrenchment, but in vain. It appealed to the government of the United Kingdom for a royal commission to investigate the condition of the Dominion. This commission, under the chairmanship of Lord Amulree, reported in November, 1933,[2] recommending the suspension of the island's constitution, the creation of a commission government responsible to the government of the United Kingdom, and financial support by the British Treasury. The island legislature promptly agreed and committed political suicide by unanimously requesting legislation by the British Parliament to implement the report.[3]

[1] A. B. Keith, *Responsible Government in the Dominions* (2nd ed.), 11–12, cites the instances of Jamaica, Grenada, Tobago, St. Vincent, Antigua, Dominica, and British Honduras.

[2] *Newfoundland Royal Commission Report*, Cmd. 4480, pp. 54–55 (hereafter cited *Report*). This report, on which the present paper is largely based, is the best survey of the island's political and economic conditions available. It will no doubt rank with Durham's famous report of 1839 recommending responsible government, and other great reports on Imperial problems. It deserves a place in the library of every political scientist for its keen analysis of the working of Newfoundland politics.

[3] Although Newfoundland had not adopted the statute of Westminster, and there-



LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Thus, democracy in Newfoundland voluntarily resigned in favor of a bureaucracy of civil service experts.

Behind the present financial plight of the island lies unfortunate economic and social conditions and a long history of political incompetence and corruption. Newfoundland proper is about 42,000 square miles in extent, or about midway between the size of Ireland and that of England.[4] Its population is about 280,000, of which 40,000 live in the capital, St. John's, and the remainder are scattered in small communities principally along the east and southeast coasts. For the most part, the people are of west of England or Irish stock, much the same stock by which self-government was nurtured in the American colonies and in most of Canada. But there are profound differences from conditions in other colonies. Though Newfoundland is essentially a frontier community, its people are far from realizing economic equality, as was usually the case in other frontier communities in North America where agriculture has been the principal occupation. On the one hand, there is a comparatively well-to-do merchant and professional class; on the other, the great mass of the people, who live often in conditions of sheer poverty in a country endowed with great natural resources. In recent years, a considerable industrial proletariat has developed about the two large pulp industries, the iron mines of Bell Island, and the more recently established zinc and lead mines of Buchans in the interior of the island. But the largest occupational group are the fishermen, who constitute the gravest social problem. They are for the most part "credit slaves" of the merchant class who supply them with food and other necessities during the autumn and winter, outfit them in the spring, and take their catch in exchange. Prices are set both ways by the merchants, and debt is the perpetual lot of many fishermen. In bad seasons, they may be denied credit by the merchants and thrown on the government for relief.

Unlike the New England colonies, Newfoundland began with no tradition of local self-government, and it has never developed any. The sole municipality is the capital, St. John's; of local government elsewhere, there is none. Government in Newfoundland is therefore highly paternalistic, all local improvements, all social welfare (on which Newfoundland has embarked rather extensively, on paper at least), being carried

fore technically there was no restriction on Parliament legislating for the Dominion, constitutional practice was strictly observed. Parliament did not act until requested formally by the legislature of the island.

[4] Labrador, its dependency, is about 110,000 square miles, but is very sparsely populated, while its resources are largely unknown. Until recently, Newfoundland's interest in Labrador was deemed to be confined to a narrow strip of sea coast, but an opinion of the Judicial Committee of the Privy Council in a reference on the question of the boundary between Newfoundland and Canada awarded Newfoundland an enormous area inland. *In re* Labrador Boundary, 43 T.L.R. 289.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

out by a beneficient government at the capital. This, combined with the fact that there are no direct taxes, even for local improvements, except income taxes, which are paid by only a few, tends to make for an irresponsible and dependent electorate. In addition, through the spoils system of politics which in Newfoundland has become a fine art, all local activities of the central government came to be under the direction of the member from the constituency, or the defeated candidate if he happened to have been of the victorious party. The Amulree report thus describes the result:[5]

"If a man lost his cow, he expected the member to see that the government provided him with another; if he had some domestic trouble, it was for the member to put things right; if he fell ill, he looked to the member to arrange for his removal to the hospital at St. John's at the public expense, to visit him in the hospital where he obtained free treatment, and generally to see to his comfort at no cost to himself. If the wharf in a settlement fell into disrepair, the member was expected to see that the funds were provided by the government to compensate the inhabitants for repairing it; notwithstanding that the material was at hand, that the lack of suitable wharfage was a serious inconvenience to the community, and that the necessary repairs could be effected in a few hours by willing workers, men would stand idly by and would prefer that the wharf should collapse into the sea rather than that they should repair it for their own benefit without public remuneration. . . . Roads, bridges, town halls, and public buildings; all these, and often superfluous luxuries, the government, through the member, was expected to provide and maintain."

"This political system," continues the report, "combined with the effects of the credit system in the fishing industry, weakened the fibre of the people and left them wholly unprepared for the intensive economic depression which was soon to cast its shadow over the Island." During the winter of 1932, twenty-five per cent of the inhabitants were on relief.

The dependent attitude of the electorate was an admirable breeding-ground for the worst sort of party politics. As the report points out, politics has been "modernized," particularly during the past twenty-five years. Politics has become a means for the enrichment of the politician, his family, his friends, and his supporters. There has been a "continuing process of greed, graft, and corruption which has left few classes of the community untouched by its insidious influences." "Electors in many cases preferred to vote for a candidate who was known to possess an aptitude for promoting his own interests at the public expense. . . . They argued that if a man had proved himself capable of using his political

[5] P. 83.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

opportunities to his personal advantage, he would be the better equipped to promote the advantage of his constituents."[6]

The administrative system was, moreover, archaic. The spoils system covered the whole civil service. The result was a low standard of efficiency, complete subservience of the administration to the interests of the politician, and a complete lack of coöperation between the departments.[7] In finance, until the disaster struck the island and banks insisted, there was no comptroller system and no adequate system of audit.[8] Sectarian jealousies added to the weakness of the administration. The three large denominations, Roman Catholic, Anglican, and United Church of Canada, long ago worked out a compromise about representatives in Parliament, each being awarded about one-third of the seats. This has been carried over into the cabinet, which by convention must award each group four cabinet posts, and into the public service. If a civil service post be found for a member from one denomination, posts must be found or made for one from each of the other two. So, too, with contracts awarded by the government.[9]

Newfoundland has also been something of a paradise for concession hunters, a situation in part the cause and in part the result of the condition of politics. Railway building in the eighties began the debauch. In two contracts made in the following decade, the government alienated to a private company practically all of the crown lands of any value, together with mineral rights thereon, the whole of the railways, telegraphs, postal service, and coastal shipping service, as well as the sole dry-dock in the island, and agreed to subsidize annually the railway in cash. Fortunately, a new election put in office a government opposed to such wholesale mortgaging of the future of the colony, and the contract was drastically revised. Subsequently, the company went bankrupt and the railway and other services fell into the government's hands. The railway has always had a heavy deficit on its operations, quite apart from replacement. Its total net cost to the Dominion is estimated at one-third of the national debt—although against this, certain compensations such as the encouragement of new industries must be balanced.[10] In later years mineral, pulp, and lumber rights have been alienated with almost as little regard for the future of the colony.[11]

[6] *Ibid.*, pp. 81–82. [7] *Ibid.*, p. 87. [8] *Ibid.*, p. 53, 83.
[9] *Ibid.*, p. 88. [10] *Ibid.*, pp. 67–68.
[11] *Report*, Chap. 7. Says the report, p. 91. "The question of attracting outside capital has thus been approached from the wrong angle; the fact that there can be no more powerful attraction to capital than good government has been either overlooked or ignored. In the absence of good government, inducements are doubtless required and a point is reached where the interests attracted are those represented by concession-hunters and speculators, and reputable concerns are repelled. This is what has taken place in Newfoundland, where ever-increasing inducements have been offered to capital until today few promoters would dream of undertaking any

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Since the War, moreover, Newfoundland has embarked on ambitious public works. Vast sums have been spent on roads, ostensibly to attract tourists.[12] Incidentally, the politicians and their friends were none the poorer thereby. An expensive hotel in St. John's, begun by a private company under government guarantee, has fallen into the government's hands.[13] The public debt has indeed more than doubled since the War, in part because of additional capital expenditures, or expenditures in such social services as old age pensions, education, and war pensions; in part because of failure of the government to live within its means. In not a single year since 1920 has expenditure been kept within income, the average gap being $2,000,000. The annual deficits have been met by further borrowing, and except in one instance no provision was made in these loans for sinking funds.[14]

Says the report: "The twelve years 1920–1932 were characterized by an outflow of public funds on a scale as ruinous as it was unprecedented, fostered by a continuous stream of willing lenders. A new era of industrial expansion, easy money, and profitable contact with the rich American continent was looked for and was deemed in part to have arrived. In the prevailing optimism, the resources of the Exchequer were believed to be limitless. The public debt of the island, accumulated over a century, was in twelve years more than doubled; its assets dissipated by improvident administrators; the people led into the acceptance of false standards; and the country sunk in waste and extravagance. The onset of the world depression found the island with no reserves, its primary industry neglected and its credit exhausted. At the first wind of adversity, its elaborate pretensions collapsed like a house of cards."[15]

In view of such political and financial conditions, the Amulree Commission could see no hope for the island to get out of the morass under its own power. No government which undertook the drastic reorganization necessary could long stand. Revenues were extended to the limit and could not then cover public services and interest on the public debt, which in 1932 amounted to sixty-five per cent of the income. Default would be odious and might impair the credit of other British Dominions. Even default would not solve things, since Newfoundland needed credit badly for necessary reorganization. Canada, which once would have welcomed Newfoundland into the Dominion, could hardly be expected to give her a sufficiently hearty welcome to relieve the debt situation. In any case, public sentiment in the island has always been against union with Canada. There remained the alternative of assistance from the British govern-

enterprise in Newfoundland without being assured first of such concessions as free grants of land, free entry for his goods either indefinitely or for a prolonged period of years, and exemption from taxation and other restrictions."

[12] *Ibid.*, p. 45.
[13] *Ibid.*, p. 69.
[14] *Ibid.*, p. 45.
[15] *Ibid.*, pp. 43–44.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ment. But assistance could not be expected without guarantee of political good behavior. This was too much to expect of Newfoundland. Therefore the report recommended that the island be "given a rest from party politics for a period of years," and that the government be entrusted to a commission. This commission should establish a modern civil service system, initiate policies for the restoration and modernization of the fishing industry, for improving agricultural conditions, and for conserving the forests and game, as well as other progressive policies, including establishing a system of municipal government.[16]

The financial provisions, which were left largely to the discretion of the British government, have for the time being relieved the island's problems. Under the government's bill, provision has been made for forcible conversion of the public debt at three per cent except where the bonds came under the Colonial Stock Act and were thus trustee funds, in which case the holders have the option of conversion. The new loan at par and three per cent interest is estimated to be equivalent to the market value of the bonds at the old rate at the time the bill was introduced. The loan is also backed by the United Kingdom government. The bond-holders have thus been equitably treated, while the island saves substantially in interest. In addition, the United Kingdom government undertakes to make good all deficits both on interest and on public services until 1936 as a free grant, including advances already made. This—an estimated total of £2,000,000—has been shouldered by the British taxpayer, together with the contingent liability of the island's debt of approximately £19,000,000.[17] These provisions, said a Labor M. P., constituted "one of the worst ramps that has been seen in this country for some time." They were designed to help the bond-holder, not the people.[18] The government's answer was that the credit of the island was essential for its welfare, as well as for the good name of British people everywhere.

Newfoundland has thus found in the British government a fairy grandmother. The present régime is intended to be only temporary, but there is every reason to believe that it will be many years before the island can once again shoulder its debts under a system of self-government. Meantime, the personnel of the governing commission is such that administrative efficiency and sound public policies are assured. Given a recovery of world trade, the economic recovery of the island may be fully expected. The development of sound traditions of self-government is, however, a more difficult feat for a bureaucracy, however benevolent and intelligent, to accomplish.

ROBERT A. MACKAY.

*Dalhousie University.*

[16] *Report*, Chaps. 7–8.

[17] Speech of the Chancellor of the Exchequer, *London Times*, Dec. 8, 1933.

[18] *London Times*, Dec. 19, 1933. "Ramp" is apparently English slang for the American "racket."

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

**Revision Clauses in Treaties since the World War.**[1] When the Constitution of the United States was before the states for adoption, James Iredell of North Carolina made the following observation: "The misfortune attending most constitutions which have been deliberately formed has been that those who formed them thought their wisdom equal to all possible contingencies, and that there could be no error in what they did. The gentlemen who framed this Constitution thought with much more diffidence of their capacities; and, undoubtedly, without a provision for amendment it would have been more justly liable to objection, and the character of its framers would have appeared much less meritorious. This, indeed, is one of the greatest beauties of the system, and should strongly recommend it to every candid mind."[2]

The jurist, who was to become an associate justice of the federal Supreme Court, was enunciating a truth of wide application. While his own state has not always chosen to join automatically with others in availing itself of the amending procedure of which Iredell spoke, this does not disturb the validity of his point about the necessity of permitting needed changes.

The point would seem to hold with special force in the field of treaties. For in international relations, treaties must serve a double purpose, since they to some extent take the place of legislation and, on the other hand, are contractual devices for use between states. The tyranny of an unamendable constitution might lead to revolution; the forced continuance in effect of the legal *status quo* as between states might make it more difficult to preserve peace;[3] or, if the peace itself is not threatened, situations might develop which would make more difficult the continuance of ordinary peace-time relations on the most desirable, mutually-cooperative basis.

It has been argued that the reasons which would apply as to modifications of municipal enactments can be applied appropriately in the treaty field, with international agreements coming more and more to include much technical detail, relating to a constantly widening scope of subject-matter, and often having to be drafted in two or more languages of equal authenticity.[4] The rule of *pacta servanda sunt* still being proclaimed as

[1] A paper read before a round table on international relations at the meeting of the American Political Science Association in Philadelphia, December, 1933.

[2] Elliot's *Debates* (1836 ed.), IV, 176; quoted after Orfield in 28 *Michigan Law Review*, 555n.

[3] Cf. Kunz, in 27 *American Journal of International Law*, 648n: ". . . war as a dynamic means corresponds in international affairs exactly to revolution in domestic affairs."

[4] See Jenks, "The Revision of International Labor Conventions," *British Yr. Book of Int. Law*, XIV (1933), 43–64, at p. 44.



LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the "initial hypothesis,"[5] the desirability of keeping the *pacta* in line with new conditions arising, or even with changing ideas as to international commitments, requires to be set off against the belief that stability and security are essential. It is not enough to say, as one contemporary statesman is reported to have done, that all treaties are sacred but no treaty is eternal. The problem requires to be considered in a more practical way, because of its close relation to others, such as that of a general international jurisdiction.[6]

The phase of the general subject with which this paper will attempt to deal involves only the actual texts of clauses inserted in treaties since the World War. It has been further restricted in two ways. In the first place, it takes up only treaties to which the seven Greater Powers (Great Britain, the United States, France, Russia, Japan, Germany, and Italy) have become parties during the period ending in 1932. This has been done not because of the supposed greater intrinsic importance of engagements between these powers, but because of the fact that in setting procedural methods in a matter such as this, as likewise in that of referring disputes under obligatory settlement arrangements, the size and relative importance of states make a considerable amount of difference in estimating the practical importance of the development.[7] Further restriction has been made by the adoption of a narrow definition of "revision." At the risk of being over-meticulous, the term has been taken to mean the activity of changing, modifying, or partially replacing provisions. This, of course, excludes mere termination clauses if they do not occur in connection with specific provisions looking to changes in the old instruments.[8] It leaves out articles such as are now found in a number of agreements of the United States, to the effect that the treaties shall lapse if either party shall enact legislation inconsistent therewith,[9] although obviously

[5] Cf. Lauterpacht, in *Economica*, No. 37 (August, 1932), pp. 301–320. .

[6] Cf. Brierly, "The Function of Law in International Relations," in *Problems of Peace*, Third Series (1929), pp. 297–298: ". . . side by side with the development of legal methods of settling disputes, we need a system for the peaceful introduction of changes into the international order, and . . . without the second of those two reforms an uncompromising insistence on the first would be an actual danger to peace."

[7] The treaties considered include those made by any Great Power with any other state, as well as those between these Powers.

[8] It would exclude, for example, Article 8 of the Locarno Treaty of Mutual Guaranty, with which six other Locarno agreements are coterminous. By the terms of the article, the treaty "shall remain in force until the Council, acting on a request of one or other of the High Contracting Parties notified to the other signatory Powers three months in advance, and voting at least by a two-thirds majority, decides that the League of Nations ensures sufficient protection to the High Contracting Parties" (54 L.N.T.S. 295). (References to the *League of Nations Treaty Series* in the following pages are to English texts in this Series.)

[9] Illustrated in Article 29, par. 3, of the 1925 treaty of friendship, commerce, and

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the lapsing of particular clauses might greatly affect the instrument as a whole.[10] Excluded, likewise, are many provisions for mere *supplementing* of technical regulations annexed to a treaty,[11] for certain temporary suspensions, and for the revision of codes or statutes to be drawn up under authorization of treaties.[12] Revision has been taken to include "amendment," although if a commitment be in multilateral form there is clearly a basis for distinction, in that a revised instrument might require new ratifications while an "amended" text might not.[13] Mere provisions for subsequent extensions of treaty terms to new areas, such as self-governing colonies or mandated regions, have not been considered as revision articles. Where arrangement is made for a general revision of *former* treaties between the signatories (as by Russia in its agreements of 1921, 1924, and 1925 with Persia, China, and Japan respectively),[14] the new agreement has not been included in the list.

Within this restricted definition fall some 200 "revision" clauses in engagements made by the seven Great Powers in the selected period, approximately 60 of them being multilateral in form, and the remainder bilateral. The list does not purport to be an exhaustive one, but it is believed to be representative and to include the great majority of clauses of the kind accepted by the selected states during the post-war period. For the purpose of study, it seems useful to consider the bilateral separately from the multilateral. In both cases, regard will be had principally to procedure prescribed and to the probable legal effect of the arrangements.

Revision clauses in the bilateral treaties have been classified roughly into seven groups. The mildest form is that in which some change or modification is envisaged by some general reference, perhaps not more than

---

consular rights with Estonia [44 Stat. (pt. 3) 2379], in a Senate reservation to the 1923 commercial treaty with Germany [44 Stat. (pt. 3) 2132], and in various executive agreements, such as that of 1929 with Canada in regard to civil aircraft (U. S. Exec. Agreement Series No. 2, par. 9). For similar clauses in treaties between other states, see 50 L.N.T.S. 310, 311 (Great Britain—The Netherlands); 51 L.N.T.S. 157, 52 *ibid.*, 311, 331 (Germany with Sweden and Italy respectively). In the American treaties for prevention of smuggling of intoxicating liquors, there is provision whereby an adverse judicial decision in one state might cause the treaty to lapse. See Art. VI of the treaty with France [45 Stat. (pt. 2) 2403].

[10] See recent pronouncements by the World Court in regard to the unity of whole instruments, *P.C.I.J.*, Series A/B, No. 49, pp. 312, 317.

[11] Illustrated in certain parcel post arrangements, such as that between Germany and Great Britain, July 27, 1929 (100 L.N.T.S. 440, 450).

[12] As in arrangements relating to Tangier (87 L.N.T.S. 235) or Memel (29 L.N.T.S. 87, 107).

[13] Jenks, *loc. cit.*, 46n.

[14] 9 L.N.T.S. 401; 37 *ibid.*, 176, 178; 34 *ibid.*, 32, 34. See also the Anglo-Japanese Declaration of July 8, 1920, 1 *ibid.*, 24.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

several words, in the instrument; 13 such instances have been noted.[15] In this type of clause, there is sometimes a commitment to give "friendly" or "sympathetic" consideration to suggestions of changes.[16]

A few agreements, mostly on technical matters such as telephone service or frontier traffic, permit modifications to be made by either of the contracting parties, or their respective administrative authorities.[17]

A third type of clause, found in more than 50 treaties in the list, provides for revision by agreement of the two parties, without being very specific as to the exact procedural steps to be taken,[18] a form which might reasonably be construed to permit a state's withdrawal from a burdensome obligation (at least where the other party should refuse even to discuss changes) without invoking the *rebus sic stantibus*—or, as it has sometimes been called, the "notorious"—clause, or even the doctrine of frustration.[19] In exceptional cases, it is stipulated that agreements embodying changes shall be in the form of exchanges of notes, thus apparently making unnecessary another formal ratification.[20] In at least eight German treaties, it is set forth that the parties reserve the right to make such changes as they may think desirable "in the light of experience."[21] One of these permits amendments by mere exchange of letters, provided the changes are not such as to require the approval of the respective legislative bodies.[22] By a Russo-Persian convention of 1923, changes are permitted to be made in the matter of certain charges, but they must be "in conformity with the constitution of each country."[23]

A fourth group of agreements comprises those as to which modifications are contingent upon some future development, such as the varying

[15] Illustrated in a British-Dutch agreement of 1926, 57 L.N.T.S. 42, 48.

[16] See 29 L.N.T.S. 378, 386 (Great Britain-Czechoslovakia); 114 *ibid.*, 191, 329 (France-Switzerland).

[17] See, for example, 101 L.N.T.S. 467, 475.

[18] Illustrated in the Austro-German Treaty Concerning Air Navigation, Additional Protocol, par. 3 (52 L.N.T.S. 126, 132). In this, as in many other clauses within this classification, changes might be agreed upon by national administrative agencies.

[19] On the use of a clause concerning *force majeure*, or frustration, as a solution less dangerous than acceptance of the *rebus sic stantibus* doctrine, see J. P. Bullington, "International Treaties and the Clause 'Rebus Sic Stantibus'," 76 *U. of Pa. Law Review* (Dec., 1927), 153–177. For statements concerning the clause *rebus sic stantibus* as a rule of international law, see the argument of Paul-Boncour before the Permanent Court of International Justice in the Free Zones Case, *P.C.I.J.*, Series C, No. 17, I, pp. 82, 88, 89, 91, 97, 98.

[20] See 62 L.N.T.S. 135, 137; 63 *ibid.*, 139, 147; 99 *ibid.*, 320, 321; 109 *ibid.*, 315, 317, 325.

[21] 62 L.N.T.S. 135, 137; 63 *ibid.*, 139, 147; 90 *ibid.*, 209, 211; 93 *ibid.*, 127, 128; 93 *ibid.*, 261, 263; 99 *ibid.*, 320, 321; 109 *ibid.*, 315, 325.

[22] 109 L.N.T.S. 411, 419.

[23] 110 L.N.T.S. 334, 336.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of a customs tariff, the acquisition of some new status, or the coming into effect of some other international agreement.[24] In some of these, modification of obligations is apparently intended to be automatic;[25] in others, it may be made at the instance of one signatory;[26] in still others, at the will of both parties.[27] In only one such case which has been listed is there a reference in terms to *force majeure*.[28]

In still another category are placed treaties conferring upon either party the right to demand modification, with the right of denunciation or provision for lapsing of the convention as the alternative to securing some change.[29] In all except one case in this list,[30] time limits are inserted.

More numerous are the agreements in which there is conferred upon each party the right to *negotiate* for revision. These are subdivided into those which provide for negotiation simply,[31] those which go farther and insert time limits,[32] those which permit unilateral suspension of terms if the negotiations do not bring about agreement on changes,[33] and those which say that the negotiations, if unsuccessful, may be followed by termination (lapsing or denunciation) of the treaties.[34]

Finally, there are those treaties which make revision subject to action by, or at least possible after consultation with some international agency such as a fisheries commission.[35]

Some of the listed agreements do not lend themselves readily to any of the above classifications—as one providing that the undertaking shall be "subject to revision" after ten years, in order that "new conditions" of a particular industry may be taken into account,[36] or one setting forth that the parties shall "reëxamine" a particular article at the end

[24] Twenty-three such provisions have been listed.

[25] Illustrated in 44 L.N.T.S. 183, 189. In a war-debt agreement which France made in 1930 with Yugoslavia, she undertook to give that country the benefit of any advantages which might be secured from her (France's) creditors, and to revise the agreement accordingly (104 L.N.T.S. 173, 175).

[26] Illustrated in 21 L.N.T.S. 413, 425 (Germany-Poland).

[27] Illustrated in an Austro-French commercial agreement, 88 L.N.T.S. 23, 79.

[28] Germany-Poland: Treaty for Settlement of Frontier Questions, signed in 1926 (64 L.N.T.S. 158, 159).

[29] Illustrated in the United States-Honduras Treaty of Dec. 7, 1927, 45 Stat. (pt. 2) 2618, Art. XXIX, par. 2.

[30] 12 L.N.T.S. 63, 73 (Germany-Poland and Danzig).

[31] Illustrated in 5 L.N.T.S. 208, 211 (Germany-Saar Basin Territory).

[32] Illustrated in 16 L.N.T.S. 337, 345 (Finland-Russia).

[33] As in the commercial agreement of 1929 between France and Estonia (89 L.N.T.S. 383, 399, 401).

[34] See, for example, the Franco-German commercial agreement of Aug. 17, 1927 (76 L.N.T.S. 345, 492).

[35] Illustrated in 10 L.N.T.S. 187, 243; 19 *ibid.*, 39, 61; 32 *ibid.*, 94.

[36] French-Polish Agreement Regarding the Régime of the Mineral Oil Industries, 43 L.N.T.S. 417, 421.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of a decade.[37] Some treaties with several revision clauses, or with several alternative procedures left open to the parties, have been placed in more than one of the classifications. Within the same classification, the language of clauses may vary considerably; one treaty between Germany and Denmark, for example, permits changes in the light of "considerations connected with international complications";[38] a road convention between Italy and Abyssinia sets forth that the parties may by common consent modify provisions according to the "possibilities and exigencies of the moment."[39]

The bilateral engagements in which revision clauses have been found related to a wide variety of subject-matter. Those dealing with friendship, commerce and consular rights, fisheries, frontier arrangements, customs matters, and visas comprise more than half of the entire list.

Before turning to a consideration of revision clauses in the multilateral treaties of the period, it may not be out of place to direct attention to the fact that these treaties present some decidedly different questions from those just considered. Since they include many instruments designed to take the place of international legislation, the provision made for their progressive development, reshaping, and adaptation to new conditions is, from the point of view of international organization and administration, a matter of first importance. The legal results of revisory effort may be more complicated because of the collectivity of states whose interests are affected. The determination of the status of a particular convention at a given time may become difficult.

In the brief space available for this part of the discussion, it may be possible to consider (1) provisions for the shaping and proposal of modifications, and (2) provisions for adoption of these proposals so as to bring them into effect. The peace treaties themselves have not been dealt with in the present list; their provisions in regard to modification have been discussed in a most instructive way by Professor Tobin in his recently published volume.[40]

The first of the two procedures to be noted with respect to multilateral treaties introduces the whole question of the revisory conference method, although formal conferences are not always stipulated. In a considerable number of conventions, there is provision for the expiry of a designated period of years before any revision may be proposed.[41] A small number of cases have been noted in which there may be a simple

[37] Germany's treaty of friendship with Persia, Feb. 17, 1929 (111 L.N.T.S. 29, 30). The article to be reëxamined is an arbitration article.

[38] 10 L.N.T.S. 187, 251.

[39] 94 L.N.T.S. 441, 445.

[40] *The Termination of Multipartite Treaties* (1933), 225–237.

[41] Illustrated in the 1928 Agreement Relative to Exportation of Hides and Skins, 95 L.N.T.S. 358, 363, 364 (Art. 6).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

proposal of modification, no detailed conference plan being outlined.[42] Periodic revision may be prescribed, as in the Union Convention for the Protection of Industrial Property, as reshaped in 1925.[43] In other agreements, some 20 in the list, it is set forth that there may be a request or "demand" for modification, which would seem to give the signatories the right to request discussion either of modification in general or of specific changes. Under about three-fourths of these, more than one of the signatories must sponsor the request, the most common fraction being one-third of the states bound.[44]

Revisory conferences may be convened at the instance of the parties themselves acting through a designated signatory, in a few cases at the request of one party state,[45] in others at the request of one-third of the group.[46] Pan-American conventions may be recognized as a proper subject for consideration, with a view to revision, at regular conferences of the American republics.[46a] In more than a third of the approximately 60 instruments whose clauses were studied, the formulation of amendments or modifications is to go forward through the agency of, or at conferences called by, some established international agency, such as the Council of the League of Nations.[47] Under at least five of the arrangements, the international agency may act upon its own initiative, but in the great majority of cases action is taken upon a request of more than one party state. The procedural rules for such conferences are not covered in detail in the revision clauses of many treaties, although in exceptional cases it may be specified that the conference shall fix its own procedural rules[48] or the time for future conferences.[49]

A distinction may be drawn between main articles or, as they are sometimes described, the "principles" of a convention, and the annexed technical regulations, an easier procedure being permitted for proposing changes in the latter.[50]

[42] Parties to the Convention for Suppression of Contraband Traffic in Alcoholic Liquors are committed by Article 12 (42 L.N.T.S. 75, 81) to examine such proposals in a "friendly spirit." Time limits are inserted in most of the engagements grouped with this one.

[43] 74 L.N.T.S. 291, 311.

[44] Illustrated in Article 22 of the 1923 Convention Relating to the Development of Hydraulic Power Affecting More than One State, 36 L.N.T.S. 77, 87.

[45] As in the Convention for the Unification of Certain Rules Relating to Bills of Lading (1924), Art. 16 (120 L.N.T.S. 157, 173).

[46] See the 1924 Convention Concerning Rail Traffic, Art. 60 (77 L.N.T.S. 369, 437).

[46a] Cf. 86 L.N.T.S. 246, 252.

[47] As in the Convention Relating to Simplification of Customs Formalities, 1923 (30 L.N.T.S. 373, 403).

[48] See, for example, 80 L.N.T.S. 295, 299.

[49] As authorized in the International Radiotelegraph Convention, 1927, 45 Stat. (pt. 2) 2760, Art. 13, par. 2.

[50] Perhaps best illustrated in the 1919 Convention Relating to Air Navigation, 11 L.N.T.S. 174, 196 (Chapter VIII, Art. 34).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Agreements on the limitation of naval armament, being essentially political in nature, are somewhat different in form from the others in which conference procedure is prescribed. As is well known, the armament arrangements were to be reëxamined in conference after a stated period, and in the meantime there was to be permitted departure from certain terms in the interest of national security (e.g., by the terms of the so-called "escalator" clause in the London Treaty).[51]

The second part of the process of revising a multilateral treaty, i.e., the actual adoption of the changes proposed in the ways just referred to, is covered in much less detail in the selected conventions of the post-war period. The rule of unanimity of assent in order to bring the revised instrument into effect for all of the group of states is still found in a considerable number,[52] and where it is not found in terms it may be implied from the silence of the conventions in regard to other ways of bringing the changed arrangements into force. In a few exceptional agreements on technical matters, such as a parcel post agreement between members of the Universal Postal Union,[53] new provisions may be adopted by less than unanimity, and the same is true as to changes in the technical regulations attached to some of the conventions.[54] Where modifications do not bind a signatory or adhering state without its express consent, the right of the dissenting state to denounce the revised treaty is sometimes stipulated.[55] An unusual provision is one setting forth that certain changes made by a committee of experts shall be considered as accepted unless at least two governments have made objection within a specified time.[56] The failure of some party states to accept revised conventions may leave them still bound, as toward each other and also as toward the states which do accept the new provisions, under the old instrument.

Space does not permit a further classification and analysis of revision clauses of the post-war period on bases other than those of procedure and legal effect. In a complete study, much besides the texts themselves would require to be considered. Their actual invocation and application, their interpretation by judicial tribunals, diplomatic correspondence concerning their force and effect, and the bearing upon them of general arrangements such as those embodied in the Covenant of the League of Nations, would demand attention.

[51] 46 Stat. (pt. 2) 2858 (Art. 21 of the Treaty).

[52] See, for example, the 1928 revision of the Berne Convention for the Protection of Literary and Artistic Works, 123 L.N.T.S. 235, 259.

[53] 103 L.N.T.S. 79, 123.

[54] Illustrated in the 1929 Postal Cheques Agreement, 103 L.N.T.S. 327, 337.

[55] Illustrated in the Agreement Relating to the Exportation of Hides and Skins, 1928 (95 L.N.T.S. 358, 365).

[56] See the Convention Concerning Traffic of Goods by Rail, 1924 (77 L.N.T.S. 369, 437, Article 60).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Perhaps a complete study would reveal even more clearly that no single technique has been perfected for the revision of all treaties, either bilateral or multilateral. The perfection of such a single technique seems less likely in view of the wide differences in subject-matter and in the relative weight and duration of obligations imposed. Article 19 of the League Covenant (recently referred to by an Austrian publicist as "positive law" embodying "what remained" of President Wilson's ideas on this subject after his failure to get more specific proposals accepted at Paris)[57] hardly provides a formula for use in cases of normal modifications. As to other cases, the efforts made by Bolivia and China before the League Assembly, and the result of these efforts, suggest some substantial difficulties. The kind of unanimity in the Assembly required for operation of the plan, the possibility of use against some treaties to the exclusion of others[58] or of invoking the article to secure a recommendation as to part of a treaty only, the precise effect of a recommendation—these are among the matters which do not seem to be set at rest by the accumulating literature on the Covenant article.

Collectively, the revision clauses accepted by Great Powers during the post-war years seem to reveal some tendency toward further distinction between "fundamental" and detailed, technical regulations, and toward facilitating the changing of the latter. They further show that new international machinery of the post-war period, if it has not been employed directly for the purpose by some such plan as that of Article 19 of the Covenant, has frequently been regarded as a potential agency for assisting toward such changes. Not all treaties require revision clauses, since some of them are executed and therefore "spent" soon after their making. Some distinctive techniques for remodeling multilateral instruments, such as labor conventions,[59] have not been in use for a sufficient length of time to justify generalizations as to their adequacy. Finally, the post-war period has seen, not a relinquishment of the rule of *pacta servanda sunt*, but at least some evidence of a realization that *pacta*, if they are to be really effective, should be consistent with actual conditions, and should thus reflect the continuing will of party states.

ROBERT R. WILSON.

*Duke University.*

**Internationalism in Current American Labor Policy.** It has long been recognized by students of labor economics that a high standard of living

[57] Kunz, *loc. cit.*, p. 641. Cf. Tseng Yu-hao, *The Termination of Unequal Treaties in International Law* (1931).

[58] See, on this point, Paul de Auer, "The Revision of Treaties," *Transactions of the Grotius Society*, XVIII, 155–174 (1933).

[59] Cf. Jenks, *loc. cit.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

has definite international implications. Since early in the nineteenth century, the advocates of labor reform have attempted to stimulate international action which might bring about a simultaneous elevation of the condition of the workers in order to avoid the use of labor as a factor in competition. For nearly a century now, the international treaty has been pressed as the most suitable means of avoiding competitive disadvantage as a result of social changes, and the International Labor Organization, founded by Part XIII of the Treaty of Versailles, is the fruit of this agitation.[1] It is natural, therefore, that any country seeking to maintain high labor standards should welcome ultimately the possibility of international action in defense of its effort.

While it has been a long-standing policy of the United States to encourage an elevated standard of life for its working population, the international aspects of this attitude have not until recently been clearly faced. With the advent of the administration of Franklin D. Roosevelt, a marked change took place. It is clear that the New Deal has as one of its objectives the restoration of the standard of living. In this, it is not a new departure; but in contrast with the post-war Republican administrations, the "recovery program" has attempted to meet the logic of interdependence. Just as the President recognized that interstate competition within American industry must be eliminated in so far as the conditions of labor are involved, so he assumed that the United States should collaborate as far as possible with international agencies attempting to do the same thing on a universal scale. The United States as a high standard country has everything to gain by helping to raise the standard in other countries in which a distinct advantage is or might be gained by low labor costs.[2]

On June 6, 1934, at the President's request, Senator Robinson of Arkansas introduced a joint resolution authorizing the President to "accept membership" in the International Labor Organization. This resolution was passed finally on June 16, during the closing days of the Seventy-third Congress. The International Labor Conference was then approaching, in Geneva, the close of its eighteenth session. It is natural that the passage of the joint resolution should have created great excitement in Labor Organization circles. It was hoped that presidential action applying for membership would be completed before the end of the Conference, though it became apparent that this would not be done. The election of the Governing Body was postponed on several occasions during

[1] For a brief sketch of the Organization by the author, see *Encyclopaedia of the Social Sciences*, Vol. VIII, pp. 164–167. During 1931–32, the author studied the Organization as holder of a fellowship of the Social Science Research Council

[2] See Joseph H. Willits, "Possibilities of United States Collaboration with the International Labor Organization," *Annals of Amer. Acad.*, Vol. 166, p. 168 (Mar., 1933).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the Conference in the expectation that the United States, as one of the leading industrial powers of the world, might be elected. Finally, however, the body was elected without the United States, though with the understanding that a government, a workers', and an employers' representative would retire from the body in favor of the United States should that country complete its membership. The Conference, moreover, passed a resolution inviting the United States to become a member of the Organization, giving it the assurance at the same time that it should be bound only by the obligations provided for in Part XIII, and that the Governing Body would complete with the United States the *modus operandi* of membership. In both the congressional and Labor Conference resolutions, it was expressly stipulated that the United States would assume no obligations under the Covenant of the League of Nations.[3] On August 20, 1934, the acceptance of membership in the International Labor Organization on the part of the United States was conveyed to the Director of the Labor Office by Mr. Prentiss Gilbert, American consul in Geneva. The details of our membership will, no doubt, be worked out before the end of the present year.

This development in American relations with the Organization was foreshadowed by other events. In 1931, Miss Mary Anderson, of the United States Department of Labor, was instructed to follow the proceedings of a Labor Conference, but on the eve of the Conference and after her arrival in Europe these instructions were cancelled. No adequate explanation of this apparent lack of harmony between the then Secretary of Labor and other members of the national administration has been given. However, in 1933 Miss Anderson headed a full delegation of four observers who were sent to Geneva to participate in the Conference. Observers were sent also to the Conference of 1934. After the assumption of power by the new Democratic administration in 1933, it became known that both the President and the Secretary of Labor, Miss Frances Perkins, were in favor of closer collaboration with the Labor Organization. The policy of sending observers was the first result of this change of administrative attitude, but it was also assumed that if some way could be formulated by which the United States might enter the Organization, it would be acted upon by the national government.[4]

[3] For the text of the joint resolution, see *Congressional Record, Senate*, June 13, 1934, p. 11681. The resolution passed by the Labor Conference is given in International Labor Conference, *Provisional Record*, 1934, No. 29, p. 464. See *ibid.*, pp. 458 ff., for the discussion of American membership. John L. Lewis, the American workers' observer in 1934, invited the director of the International Labor Office to attend the 1934 convention of the American Federation of Labor, and the director tentatively accepted. *Ibid.*, p. 469.

[4] For further details of American coöperation with the Organization during recent years, see *I.L.O. Year-Book*, especially of 1933, pp. 5–6.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

A number of difficulties of a legal and political character emerge as a result of the joint resolution of Congress and the action of the Labor Conference. The normal method of entry into the Organization is through the League of Nations by the ratification of the Treaty of Versailles or those parts of it which establish the League and the Organization. A somewhat less regular procedure would be the ratification alone of Part XIII, by which we would enter the Organization as one of the original signatories of the Treaty. But it was evident that the Administration had no desire to create a political storm by submitting Part XIII to the Senate for ratification. Yet something more than informal action would be necessary if the United States was to expect to become an active member of the Organization. The budget of the Department of Labor might stand the expense of sending observers, but it would not, without special provision, carry the cost of an ordinary membership. Some approval by Congress was, therefore, necessary to enable the government to include without question in the national budget an American contribution to the Labor Organization. This explains in part, no doubt, the policy adopted by the Administration of requesting the introduction of a joint resolution permitting the President to accept membership. Certainly, the Peace Treaty does not contemplate membership being attained by anything short of ratification of the relevant sections of the Treaty.

Further difficulties may be found in the assumption by the Administration of a rather complete autonomy of the Labor Organization in relation to the League. Here is a legal issue which has been discussed from the foundation of the Organization and the League in 1919 and 1920. It can hardly be said that any satisfactory solution has been found. To the present, at least, the attitude of the Secretariat has been that the Organization is an integral part of the League system, though having an independent status on certain matters. The budget of the Organization is passed finally by the Assembly of the League, and the Supervisory Commission was more than ordinarily aggressive in 1933 in its criticism of the principle of Labor Organization autonomy.[5] Osusky, the chairman of the

[5] See *Official Journal of the League of Nations*, Special Supplement, No. 118 (1933), p. 79; C. W. Pipkin, "Relations with the League of Nations," *Annals of Amer. Acad.*, Vol. 166, pp. 124 ff. (Mar., 1933). See also James T. Shotwell (ed.), *The Origins of the International Labor Organization*, 2 vols. (New York, 1934). This significant work is colored by the desire of the contributors to show the independence of the Organization from the League in order to pave the way for American membership in the former. Practically no attention is paid to the bonds which unite the two organizations. For instance, on p. xxv of Vol. I Professor Shotwell significantly omits any mention of the important part played by the members of the Council of the League in the ratification of amendments to Part XIII. In any case, freedom of the Labor Conference to propose amendments to Part XIII is not important if the ratification must be by members who are in turn members of the League.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Commission, remarked that the question of autonomy had become one of routine discussion, but that he must insist that the Commission has duties as to both the League and the Organization. He admitted that the Governing Body of the Labor Office might make those duties more difficult to perform. It is probable, however, that the prospect of American membership in the Organization will be so welcome to the League that any such denial of Organization independence will be carried discreetly behind the scenes.

In the United States, the emphasis on the autonomy of the Organization is quite understandable. It was necessary to prevent the League issue, of burning memory, from being discussed if we were even to think of entering the Organization. The report of the House Committee on Foreign Affairs is undoubtedly too optimistic as to the independent character of the Organization, since it is stated that the "International Labor Organization has no essential connection with other international bodies."[6] In order to avoid a discussion of the League, the case for autonomy has been over-stated. The congressional resolution notes that other states have joined the Organization without joining the League, but this overlooks the fact that the admission of Germany and Austria occurred under special circumstances and that the Labor Office legal advisers are in no wise agreed that there is an unimpeachable right to admit a state as a new member. The American resolution is quite correct in noting that "the United States early recognized the desirability of international coöperation in matters pertaining to labor and took part in 1900 in establishing, and for many years thereafter supported, the International Association for Labor Legislation." But the implication in the material submitted to the House committee that the present Organization is a *mere continuation* of the organization of 1900 is hardly to be sustained in sober argument. The present Organization is, and remains, a creation of the Treaty of Peace and is, further, an essential department of the League of Nations.

The International Labor Conference and the Labor Office were, likewise, disposed to welcome a solution which would not involve squarely facing the issue of whether there is any power legally to admit a new member of the Organization. The controlling article of the Treaty is 387, which states that "the original members of the League of Nations shall be the original members of this organization, and hereafter membership of the League of Nations shall carry with it membership of the said organization." From one viewpoint, this article is positive, in that it provides that the members of the League shall be members of the Organization. But otherwise it is not provided definitely that only members of the League may be members of the Organization. Austria and Germany were

[6] See 73rd Cong., 2nd sess., House Rep. No. 2006. In this connection, see the letter of Miss Perkins appended to the report.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

admitted to the Organization by the 1919 Labor Conference in Washington, D. C., but since then no members have been so admitted. Conservative opinion holds that these two states became members in virtue of the conditions of negotiation of the Treaty, and not because of any particular power of the Labor Conference. The Conference has had the opportunity of admitting new members, but it has avoided any action. The withdrawal of states from the League has presented further problems, since Brazil has remained in the Organization though it retired from the League and Japan has likewise elected to stay with the Labor Organization. Germany has announced her withdrawal from both the League and the Organization. Had the Organization been willing to admit members, it is likely that Egypt would be a member by this time.[7]

The closest approach to an opinion on the question arose in the Danzig case, which was heard before the Permanent Court of International Justice. The Free City of Danzig, whose foreign relations are conducted by Poland, wished to become a member of the Organization. After considerable discussion, the question was submitted to the Permanent Court for an advisory opinion. The primary effort of the Labor Office was to prevent a discussion of the question of whether the Organization might admit Danzig. Rather, the issue was, for the Office at least, whether Danzig had such an international status as to make her capable of being a member. The advisory opinion, which was rendered in August, 1930, held by a majority vote that under the existing arrangements the Free City could not become a member of the Organization. The majority of the Court declined to pass specifically on the power of the Organization to admit a new member. However, Judge Anzilotti, in an individual opinion, declared that there was "no doubt that the intention of the parties to the Treaty of Versailles was that membership in the League of Nations and that of member [*sic*] of the International Labor Organization should coincide, and to prevent a state or political community from becoming a member of the International Labor Organization without at the same time being a member of the League of Nations."[8]

Sufficient information has been given to show at least that there are some legal questions to be raised in connection with the recent developments in American relations with the Organization. The data given make

[7] For information on the problem of the admission of Austria and Germany, see *Official Bulletin* of the International Labor Office, Vol. I (1923), pp. 568 ff. Professor Manley O. Hudson, who was legal adviser to the Conference in 1919, presented the strongest argument against the right of the Conference to admit members. He concluded: "The conclusion must be that membership in the Labor Organization depends upon membership in the League of Nations as a whole . . ." *Ibid.*, p. 581. See also International Labor Conference, *Final Record*, 1919, p. 211, for Professor Hudson's opinion.

[8] *Official Bulletin*, XV (1930), 89. For data on this case, see *ibid.*, pp. 71 ff.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

it clear that the policy of the Administration of seeking some kind of informal membership is in accordance with the desires of the Labor Office. But it is clear, likewise, that legal considerations will not be urged against the extent of coöperation proposed by the United States. The exact status of our acceptance of membership in the Organization will be difficult to assess. Perhaps it is not too much to say that it will be *sui generis* in the annals of the League. Membership in the League System is supposed to be attained by the ratification of the international instruments which create this international union. Some advance in analysis may be made if we compare the basis of our membership with that of the executive agreement; only in this case it is an executive agreement between the President and a part of a comprehensive international union which may be designated as the League of Nations System.

As a member of the Organization, certain duties will fall upon the United States. In the first place, we shall be bound to provide an annual financial contribution to the support of the Organization, which will be determined by the Governing Body in general agreement with the principles of League finance. Secondly, we shall be under the obligation of sending each year to the Labor Conference a complete delegation composed of two government delegates, a workers' delegate chosen in consultation with the most representative organization of workers (probably the American Federation of Labor), and an employers' delegate selected in the same manner. There may be more difficulty in determining the most representative employers' organization in the United States. Thirdly, we shall be under theTreaty obligation of submitting within a limited time (at most eighteen months) the decisions of the Labor Conference to the competent national authority. On those matters upon which Congress has jurisdiction, the draft conventions and recommendations will be considered by the national government; on those which fall within the power of the states, they must be submitted to the state governments. The importance of the permanence and constitutionality of the "recovery program" in this connection needs little elaboration. The establishment of a labor standard by the code system would surely give sufficient ground for the ratification by the national government of an international labor convention which normally might fall within the jurisdiction of the forty-eight states. Article 405 of the Treaty, however, provides that in federal governments labor conventions coming within local jurisdiction may be treated as non-ratifiable recommendations.[9]

Within the Organization itself during the past decade certain developments have been appearing which have prepared it in a real sense for future American participation. One may regard these tendencies as the

[9] See my "International Labor Relations of Federal Governments," *Southwestern Political and Social Science Quarterly*, September, 1929.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

gradual overcoming of the Peace Conference stamp of regionalism, a regionalism which made the Organization primarily European in attitude, personnel, and in the selection of subjects for Conference discussion. The Labor Office is located in Europe, and the meetings of the Governing Body, the Conference, and committees of experts with few exceptions have taken place on the Continent. The staff of the Labor Office is predominantly European, and of the European elements the French and the British have the largest number of posts and the most important ones. Research technique has been oriented toward the exploitation of European experience, and the experts consulted by the Office have been, for the most part, Europeans. European employers have dominated the employers' group in the Conference, and the leaders of European trade unions have directed the policy of the workers in the Organization. To many over-seas representatives, the Organization has been a European institution in every way except in the much more equal distribution of the financial burden of supporting the League System.

The over-seas representatives have waged a constant warfare on the prevailing distribution of influence. They have demanded a fair distribution of the staff of the Office, not so much to secure additional jobs for their nationals as to assure that the non-European point of view will find satisfactory expression. They have insisted that European industrial and labor experience is not always valid universally, and that draft conventions and recommendations framed for world-wide application must be drawn up with a full consciousness of the experience of the non-European world. Somehow this continuous demand for universalism in the Organization made little headway until about 1932. One reason for the change that can be perceived since that time may be the more cosmopolitan outlook of the present director of the Labor Office, H. B. Butler, who succeeded Albert Thomas in the summer of 1932. Butler has been a careful student of North American industrial problems, and he understands the labor movement in this country. He is a product of the British civil service rather than of Continental parliamentary socialism. But in addition to this, the non-European states were becoming more coherent in their demands. Not only did they propose constitutional changes of great importance, such as fewer sessions of the Conference and Governing Body, but made demands of less significance, such as for more over-seas personnel on the staff, more missions from the Labor Office to over-seas countries, more experts chosen outside of Europe, a greater length of time between various stages in the preparation of draft conventions and recommendations, and a fairer distribution of the cost of traveling to and from Geneva. They asked, likewise, that just as European labor problems had in fact received regional treatment there should be regional treatment of the labor problems of other areas, such as those faced by Asiatic countries.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Definite commitments have now been made by the Director, and some progress has been realized toward satisfying the wishes of non-European countries, among which, of course, the United States must be numbered. The Director has given assurances that in making further additions to the staff the predominance of the European countries will be cut down, and that South American nations in particular will be provided with more representation. A more positive policy of investigation on the spot in labor matters concerning non-European countries has been adopted, and a larger number of over-seas technical experts have been placed on the research committees of the Office and Governing Body. Furthermore, the League is urged to consider the question of the equalization of traveling costs incurred in attending the meetings of the Organization.[10]

One of the most significant recent advances toward giving the non-European members a more important influence in the Organization occurred in June, 1934, when an amendment to Article 393 finally came into effect. This proposal had been pending since the Conference of 1922, but while the great majority of the members had ratified it, there was prolonged difficulty in securing the ratification of the members of the Council of the League. As the membership of the League Council has changed continuously, the Organization has for several years been just short of the adoption of the amendment. The new Article 393 provides for an increase in the membership of the Governing Body from 24 to 32 persons, 16 representing the governments, eight the employers, and eight the workers. Of the 16 persons representing the governments, six must be from non-European states, and two employers' and two workers' representatives must be from extra-European members. The Governing Body was elected in 1934 on the basis of the new provisions in the Treaty.[11]

[10] Most of the information on the over-seas problem appears in the *Minutes of the Governing Body*. See Sixtieth Session, October, 1932, pp. 65, 93, 142–44; Sixty-first Session, February, 1933, pp. 19 ff., 85 ff.; Sixty-third Session, June, 1933, pp. 270 ff.; Sixty-fourth Session, October, 1933, pp. 375–76. In the autumn of 1933, a special section was created in the Labor Office to deal with non-European countries, the present head of which is Mr. Mack Eastman, who is one of the Canadians on the staff. During the Seventeenth Session of the International Labor Conference in 1933 there was a special meeting of the representatives of over-seas countries, who expressed at the time particular interest in the equalization of the cost of sending delegates to Geneva. There was also a special meeting of the delegates from Latin American states. *Ibid.*, pp. 498–499. On the question of the reorganization of traveling expenses, note International Labor Conference, *Provisional Record*, 1934, No. 25, p. 343. As an additional concession to non-European countries, the period between the establishment of the agenda and the meeting of the Conference was lengthened in October, 1932. See *Minutes of the Governing Body*, Sixtieth Session, Oct. 1932, pp. 61–62.

[11] For the text of the new article, see International Labor Conference, *Provisional Record*, 1934, No. 8, Appendices, p. I.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The evidence so far given indicates that progress is being made toward a genuine *rapprochement* with the over-seas countries. Despite the withdrawal of Germany from the Organization and the consequent strangulation of the movement toward ratification of conventions in Europe, the year 1933–34 was one of the most important in the whole history of the Organization in this respect. Eighty-one new ratifications were deposited with the Secretary-General of the League in the year ending in March, 1934; but even more significant is the fact that seventy-four of these came from Latin American members.[12] From the American point of view, the most gratifying development is the great influence which the experiments under the present Administration are having upon the European industrial mind. The *Report of the Director* to the Labor Conference in 1934 shows the importance to the program of the Organization of current American economic changes. When the last Conference refused to pass the proposed draft conventions providing internationally for the forty-hour week in commerce and industry, one of the leading workers' delegates declared that these standards would yet be adopted under the pressure of the United States as a new member of the Organization.[13]

If the world is moving toward economic planning, the policies of the United States, if permanent, will certainly find support from the Labor Office, some of the governments, and the workers' group in the Organization. Never in the history of the Organization has American industrial philosophy and attitude been more akin to that of the Organization than under the present program of national industrial and agricultural recovery. While the United States will, in all probability, resist the tendency of certain European powers to make the Organization an instrument for fostering emigration from Europe, on most questions before the Conference it will not be difficult for this country to give support and also to draw benefit from European experience in the long struggle to conquer the economic maladjustments of the present era.

FRANCIS G. WILSON.

*University of Washington.*

[12] International Labor Conference, *Provisional Record*, 1934, No. 16, p. 207.
[13] *Ibid.*, No. 30, p. 498.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

# NEWS AND NOTES

## PERSONAL AND MISCELLANEOUS

*Compiled by the Managing Editor*

As announced in an earlier issue of the REVIEW, the thirtieth annual meeting of the American Political Science Association will be held at the Sherman Hotel, Chicago, on December 28–29. A preliminary edition of the complete program will be mailed to all members about the end of November. Meanwhile, the program committee desires to announce the topics and leaders of the round table conferences, and to request members who desire to participate in the discussions of one or more of the groups to communicate at an early date with the appropriate leader or leaders. The committee plans that the setting and procedure of the round tables shall be as informal as possible, and with this in view each chairman has been requested to arrange for the discussion of his topic or problem without recourse to set speeches or written papers. Discussion will be opened in each instance by persons specially invited because of their interest in and competence to handle a given topic, but will later be thrown open —so far as time permits—to others desiring to participate; and arrangements are to be made to seat the more active participants in each group around a table. While only one session of each round table is being definitely scheduled, the forenoon of the closing day will be left open for a second meeting of such groups as desire to continue their discussions. The round table list is as follows:

*Thursday morning, December 27:*

"Changing Regional Alignments in American Politics"
Chairman: H. C. Nixon, Tulane University
"Symposium on the Report of the Commission on Social Studies in the Schools"
Chairman: Ben A. Arneson, Ohio Wesleyan University
"Implications of National Planning for International Relations"
Chairman: Frederick L. Schuman, University of Chicago
"The Courts and the Recovery Program"
Chairman: Robert E. Cushman, Cornell University
"The Technique of the Service Survey of Administration"
Chairman: E. O. Griffenhagen, Griffenhagen and Associates, Chicago
"The Changing Financial Status of American Cities"
Chairman: Paul V. Betters, American Municipal Association
"Methods of Civic Reform in Rural Areas"
Chairman: Arthur W. Bromage, University of Michigan

*Thursday afternoon, December 27:*

"Problems of Adult Political Education in the United States"
Chairman: Charles E. Merriam, University of Chicago
"Training for the Public Service in a Planning State"
Chairman: Harvey Walker, Ohio State University



LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

"Marxism, Leninism, Stalinism"
Chairman: Oscar Jászi, Oberlin College
"New Legal Devices in Emergency Administration"
Chairman: James Hart, Johns Hopkins University
"Public Relations of National Administrative Agencies"
Chairman: E. Pendleton Herring, Harvard University
"Uniform Reporting by Local Governmental Units"
Chairman: Carl H. Chatters, Municipal Finance Officers Association
"Administrators and Technicians in Planning: Housing"
Chairman: Charles S. Ascher, National Association of Housing Officials

*Friday morning, December 28:*

"Propaganda Methods of Dictatorships"
Chairman: Harwood L. Childs, Princeton University
"The Technique of Commissions of Inquiry"
Chairman: Luther Gulick, Institute of Public Administration
"The Future of the Forty-Eight States"
Chairman: Lloyd M. Short, University of Missouri
"Current Patterns in Public Welfare Administration"
Chairman: Frank Bane, American Public Welfare Association
"Tax Delinquency Studies"
Chairman: Lent D. Upson, United States Bureau of the Census
"The Problem of Dual Nationality" (in collaboration with the National Council on Naturalization and Citizenship)
Chairman: Rinehart J. Swenson, New York University

The summer meetings of the Executive Council and Committee on Policy of the Association were held at the University of Chicago on September 19, each with an exceptionally full attendance. The meeting of the Council was devoted largely to hearing and considering reports of the secretary-treasurer, managing editor of the REVIEW, and various committees; that of the Committee on Policy, to reports from subcommittees and especially to the larger features of a further program of activities in support of which a renewal of the Carnegie Corporation's subvention is to be sought in the near future.

Professor Quincy Wright, of the University of Chicago, is spending the autumn quarter abroad. Between October 29 and November 2, he will deliver five lectures at the Graduate Institute of International Studies, Geneva, on "The Conditions of Peace and the Causes of War."

Professor Marshall E. Dimock, of the University of Chicago, is engaged upon a survey of the Inland Waterways Corporation and will report informally to the Secretary of War, under whose supervision the undertaking is administered.

Professor Ellery C. Stowell, of the American University, is conducting courses on international law at Stanford University during the fall quarter.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

At Princeton University, Drs. Fritz Morstein Marx, Douglas A. Campbell, and Henry Reining, Jr., have been appointed to instructorships in the department of politics.

Professor George A. Graham, of the department of politics at Princeton, acted as dean of the summer session of George Washington University in Washington, D. C. His teaching related particularly to the administrative problems of the New Deal.

Drs. Edward W. Carter and Bradford W. West have been promoted to assistant professorships in political science at the University of Pennsylvania. With Dr. Charles C. Rohlfing, also of Pennsylvania, and Associate Dean John G. Hervey of the Temple Law School, they have completed a volume now in press on "Business and Government."

At the University of Pennsylvania, Assistant Professor Edward W. Evans and Mr. Wilson T. M. Beale have been reappointed to Penfield scholarships for the year 1934–35. Mr. Beale is engaged upon a study of British tariff policies, while Mr. Evans is continuing an inquiry into American policy on disarmament.

At the opening of the present academic year, a separate department of government and citizenship was organized at the University of New Mexico under the chairmanship of Dr. Arthur S. White.

Mr. Lyman Moore, who has done graduate work at the University of Wisconsin and Northwestern University, has been added to the staff of the International City Managers' Association.

Returning after a semester's leave of absence spent in studying the government of Shanghai, Professor William C. Johnstone has been promoted to an associate professorship and made acting dean of the Graduate School and School of Political Science at George Washington University.

Dr. Carlton C. Rodee, who recently completed his graduate work at Yale University, has been appointed assistant professor of public administration at the University of Southern California.

Professor Erwin F. Meyer, of the University of Colorado, died at his home in Boulder on June 17.

Dr. Elmer E. Smead, who received his degree at Princeton in June, has become an instructor in political science at Dartmouth College.

Dr. Philip W. Buck has been appointed acting instructor in political science at Stanford University. He is on leave of absence from Mills College.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Dr. Henry Janzen, for two years assistant in the department of political science at Ohio State University, has been appointed assistant professor of political science at Hendrix College, Conway, Arkansas.

Professor Morris B. Lambie, of the University of Minnesota, is on sabbatical leave for the fall term of the current academic year and is engaged in the study of university training for the public service. He will spend the greater part of his time in Washington, D. C. Professor Lambie was in Europe during July and August in connection with his investigation of the same subject, and also attended certain conferences in the field of public administration.

Under appointment by Governor Winant, Dr. Milton V. Smith, of the department of political science at Dartmouth College, spent the summer as personnel officer of the New Hampshire state liquor commission, his particular task being the selection of managers of the new state liquor stores.

Professor James W. Martin, director of the University of Kentucky bureau of business research, served during the spring as tax consultant of the Kentucky interim legislative committee on finance, and has recently been designated director of research for the Interstate Commission on Conflicting Taxation, with headquarters in Chicago.

Dr. Freeman H. Allen, head of the department of history and politics at Colgate University for twenty-six years, retired in June. Dr. Norman J. Padelford has been advanced to a full professorship in government, and is chairman of the sophomore tutorial system installed as part of the new "Colgate plan."

Among delegates appointed by President Roosevelt to attend the international conference of the International Union of Local Authorities held at Lyons, France, in July were Professor Charles E. Merriam, of the University of Chicago, Mr. Paul V. Betters, executive director of the American Municipal Association and of the United States Conference of Mayors, and Mr. Louis Brownlow, director of the Public Administration Clearing House.

Professor Frederick H. Guild is on leave from the University of Kansas during the present academic year and is serving as director of the research department of the Kansas Legislative Council under an arrangement financed by one of the foundations. Organized in July, the research department submitted preliminary reports to the August meeting of the Council and is now engaged in preparing data for use at a November meeting. Mr. Edwin E. Stene, instructor at the University of Cincinnati, has been secured to conduct Professor Guild's courses during his absence.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

At a meeting organized by the American Bar Association's committee on the law of municipal corporations, held at Milwaukee on August 27, papers were presented as follows: "Legal Problems Affecting the Non-Federal Phases of the Public Works Program," by Frederick Wiener, Federal Emergency Administration, Washington, D. C.; "State Receivership of Municipal Corporations," by Henry F. Long, state commissioner of corporations and taxation, Boston, Mass.; and "Immunity of Municipal Corporations from Tort Liability," by Professor Edwin M. Borchard, of Yale University.

The University of Washington has created two bureaus of research associated with the department of political science: (1) a Bureau of International Relations, to conduct research in the field of international law and relations, with special attention to the Pacific area; and (2) a Bureau of Governmental Research, to carry on research in public administration, with particular reference to the problems of the state and its local governments. Mr. Maxim von Brevern, recently appointed instructor in the department, is director of the Bureau of International Relations, working under the general supervision of Professor Charles E. Martin, and Professor Joseph P. Harris is director of the Bureau of Governmental Research. Mr. Russell Barthell, recently appointed instructor in political science, serves as assistant director of the latter bureau. Mr. Barthell is executive secretary of the Association of Washington Cities, and will provide research and service for the cities of the state through a coöperative arrangement. Mr. Harald Bergerson has been appointed acting instructor in political science and research assistant in the Bureau of Governmental Research.

During the past year, Mr. Abram Orlow, of the department of political science at the University of Pennsylvania, directed a series of studies on the varying interpretations of the federal naturalization laws. For the coming year he has accepted the chairmanship of a committee which is to make an extended inquiry into the results of naturalization. Several hundred new citizens naturalized in 1930 are to be followed up by a staff of investigators located in six centers of population. At each place a complete record of the naturalized citizen since the year mentioned is to be compiled, showing whether he has become a public charge or has had difficulties with the courts, or whether he has been able to make his way satisfactorily. In each case the inquiry is to be followed by a personal interview, and general conclusions are to be drawn as to the possible need for changes in naturalization policy.

The eleventh summer session of the Students' International Union was held in Geneva, Switzerland, from July 17 to September 1, under direction

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of Professor Pitman B. Potter, of the Graduate Institute of International Studies. The program consisted of conferences, round tables, lectures, and visits to the offices of the League of Nations and the International Labor Office. Lecturers and other participants, in addition to Professor Potter, included Gilbert Murray, Malcolm W. Davis, William E. Rappard, G. P. Gooch, and P. W. Martin.

Under the auspices of the department of political science, an "international affairs week" was conducted from July 30 to August 3 at the University of Minnesota. Lectures were delivered by Dr. Stanley K. Hornbeck, Professor Denis W. Brogan, and Professor Quincy Wright. Three round table conferences were held under the leadership of Professor Harold S. Quigley, to which other members of the University faculty and of the local business and professional community contributed. The attendance at both the lectures and the round tables was good and the interest shown excellent.

The New School for Social Research, New York City, received permission in August to transfer all of its property without consideration to a new corporation of the same name chartered recently by the Board of Regents of the state of New York with power of conferring degrees in its graduate school. The former corporation was a membership organization without such power, while the new one is formed under the education laws of the state.

Under auspices of the National Association of Housing Officials, three European leaders in housing reform began on August 20 a round of visits to thirty-six American cities for purposes of inspection and conferences. The members of the group were Sir Raymond Unwin, technical adviser to the Greater London Regional Planning Committee; Ernest Kahn, formerly manager of the municipal housing enterprises of Frankfort-am-Main, Germany; and Miss A. Samuel, member of the Council of the Society of Women Housing Estate Managers of Great Britain.

When its Mayors' Association was formed during the past summer, Georgia became the thirty-third state in which the municipalities or municipal officers are bound together in some kind of association or league. Although the league movement first gained headway among the larger cities of the more populous states twenty years ago, many states with fewer and smaller urban communities have recently formed leagues. In most cases, the organizations have full-time secretariats, which may be called upon for advice on any subject from handbill laws to budget procedures. Seventeen now publish periodicals dealing with city business and problems within their states, and the number of schools for municipal officials and employees—firemen, policemen, water-works superin-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

tendents, finance officers, etc.—is steadily increasing. The *United States Municipal News*, bi-weekly of the American Municipal Association and the United States Conference of Mayors, is a clearing house bulletin of inter-city information on new ordinances and other municipal developments culled from the current press of the entire country.

Members of the Governmental Research Association and the American Political Science Association held a conference at Cazenovia, New York, during the period August 27 to September 1. The meeting—which was the first that these two associations have held jointly—was made possible through the coöperation of the Executive Committee of the G. R. A. and the Sub-Committee on Research of the Committee on Policy of the A. P. S. A. The program was informal, meetings being held mornings and evenings, with the afternoons left free for private discussion or recreation. The topics dealt with included: the present financial situation in municipalities; municipal bonds; control of land use in both urban and suburban areas; revamping municipal revenue systems; financing of unemployment relief by states and municipalities; and reorganization of county government. Philip Cornick, of the Institute of Public Administration, presided during the first four days, and R. C. Atkinson, secretary of the governor's commission on county government in Ohio, was in charge of the meetings on county government. About ninety were in attendance, including twenty political scientists.

Under the sponsorship of the Sub-Committee on Research of the Committee on Policy of the American Political Science Association, a regional committee on research composed of members of the Southern Political Science Association has been appointed to encourage and coördinate a program of research growing out of the emerging problems of the Southern region. The Southern Political Science Association, in recent months, has become particularly conscious of vital and productive research projects in the South growing out of the Tennessee River development. The new committee is composed of Professors John W. Manning, University of Kentucky, chairman; C. B. Gosnell, Emory University; F. W. Prescott, University of Chattanooga; C. C. Sims, Middle Tennessee State Teachers College; D. W. Knepper, Mississippi State College for Women; and E. B. Wright, University of Alabama. The committee is now taking an inventory of governmental research in the South, and is attempting to encourage and coördinate a comprehensive research program centering around the present important developments in the region.

In moving into new quarters at 8 West 40th Street, New York City, the Foreign Policy Association, the League of Nations Association, the Woodrow Wilson Foundation, and the World Peace Foundation (which

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

may be joined later by other groups) have taken steps to carry out a program of closer coöperation among organizations dealing with educational and international affairs. The housing of these organizations in the same building presents a number of advantages. The World Peace Foundation will assume the task of promoting the distribution of the publications of the various organizations; the services of the Foreign Policy Association research department and Washington Bureau will be available to the coöperating groups; and the facilities of the Woodrow Wilson Library will be similarly accessible. The Foreign Policy Association and the World Peace Foundation, moreover, will continue to coöperate in sponsoring committees on policy and in publishing the *World Affairs Pamphlets*. Apart from these measures of coöperation, the Foreign Policy Association will maintain its independence and present policies, being alone responsible for its activities (*Foreign Policy Bulletin*, May 4, 1934).

After spending several months in Cuba studying all aspects of the island's political, economic, and social organization and conditions, a Commission on Cuban Affairs organized by the Foreign Policy Association on invitation of President Mendieta has lately been engaged in preparing its report. The American members include Dr. Raymond L. Buell, chairman, Dr. Ernest Gruening, Dr. M. C. Wilson, Professors Frank W. Fetter, Frank D. Graham, Leland H. Jenks, Wilson D. Smillie, Lester M. Wilson, and C. C. Zimmerman, Miss Helen Hall, and Mr. Charles A. Thompson, secretary. Owing to the critical political situation which developed in the island during the summer, it was not possible to secure the full Cuban representation on the Commission that had been planned; nevertheless, generous unofficial coöperation of every important native group was obtained. With respect to the results of the investigation, the Commission's prospectus says: "Having collected and analyzed the relevant facts of Cuban life, the Commission presumably will wish to make recommendations as to future policy. In this connection, it may have to determine the type of society it envisages for the future of Cuba. Should this society be based on the most advanced form of industrialization, or should Cuba aim at a frugal agricultural existence, offering economic security to the masses but very little wealth above the subsistence level? What rôle should the state play in the development of either form of society? Are Cuba's difficulties primarily due to economic causes beyond Cuba's control, or can these difficulties be met by internal reorganization? Likewise, the Commission may have to make up its mind whether the Cuban government, should it decide to change the economic system, should adopt a policy of expropriation or interfere with private property only in return for compensation? Finally, the Commission may wish to examine what attitude the United States should take toward the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

efforts of Cuba at reconstruction and make recommendations concerning future relationships between the two countries.

The study of the Orient by Western scholars has hitherto been rendered difficult by the lack of adequate information respecting the results of research currently published in the Chinese, Japanese, and Russian languages. Since the major work in Oriental studies is being done by scholars to whom these tongues are native, obviously some channel by which it can be quickly conveyed to the Western scholar is necessary. For this reason two interesting experiments just undertaken are worth mention. The National Library of Peip'ing, with the support of the Chinese Committee of the League of Nations Commission on International Intellectual Cooperation, has begun the publication of a *Quarterly Bulletin of Chinese Bibliography*. This periodical, of which the first number (in a Chinese, an English, and a "combined" edition) appeared during the summer, continues the work hitherto carried on, courageously but inadequately, by *Book News from China*, irregularly issued for the last few years by the Peip'ing Union Book Store. The editors of the new quarterly have undertaken to provide a most important tool in the implementing of Chinese studies, and, notwithstanding the modestly expressed foreword to the first number, they give every indication of doing the job well. The initial number contained current bibliographies of books published in China, notes of scholarly organizations and undertakings, and special articles. Later numbers will emphasize the bibliographical sections at the expense of special articles. Even more ambitious is a Japanese attempt to provide Western scholars with adequate information concerning the contributions of Japanese scholars in the Oriental field. This year has seen the organization in Tokyo of the *Kokusai Bunka Shinko Kai* (Society for International Cultural Relations). This institution, generously supported by the Japanese, has published an elaborate program of activities, involving the production of translations, bibliographies, abstracts, hand-books, and other implements of study and research. Success with even a small part of the program will place Oriental studies in the West on an entirely new basis. As yet no such formal and systematic arrangements provide exchange of information with Soviet scholars, though both the American Council of Learned Societies and the American Council of the Institute of Pacific Relations maintain constant informal contacts with scholars and learned organizations in the U.S.S.R., and are working as rapidly as possible toward the establishment of better facilities for such exchange.

**You and Your Government Series.** Series Nine of broadcasts presented by the Committee on Civic Education by Radio of the National Advisory Council on Radio in Education and the American Political Science Association, in coöperation with the National Municipal League, will

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

deal with Trends in Government. The broadcasts will be presented, as heretofore, on Tuesday evenings, at 7:30 Eastern Standard Time, 6:30 Central, 5:30 Mountain, and 4:30 Pacific, each for a period of fifteen minutes. All will be published by the National Municipal League. Reprints of individual programs may be obtained directly from that organization (309 East 34th St., New York City) for fifteen cents each, and the entire series of eighteen may be had for two dollars. The complete program of the Ninth Series is as follows:

Oct. 2: "The Crisis in Local Government"
Charles A. Beard, author and lecturer; former president, American Political Science Association
Oct. 9: "European Local Government"
Charles E. Merriam, University of Chicago
Oct. 16: "Putting Cities on a Cash Basis"
L. P. Mansfield, supervisor, bond dept., Prudential Insurance Company of America
Oct. 23: "Local Government from the Ground Up"
John M. Gaus, University of Wisconsin
Oct. 30: "American Municipal Leagues"
Harold D. Smith, president, American Municipal Association
Nov. 6: "New Rights for Old"
James T. Young, University of Pennsylvania
Nov. 13: "Regionalism and Local Government"
Phillips Bradley, Amherst College
Nov. 20: "The 44 Legislatures of 1935"
Henry W. Toll, director, and Hubert R. Gallagher, research assistant, American Legislators' Association
Nov. 27: "Forty Years of Progress"
From the Annual Meeting of the National Municipal League in Pittsburgh
Dec. 4: "Community Foundations"
Leonard P. Ayres, vice-president, Cleveland Trust Company
Ralph Hayes, director, New York Community Trust
Dec. 11: "Enforcing Tax Collections"
Philip A. Benson, president, Dime Savings Bank of Brooklyn
Russell McInnes, government bond department, Dahman Bros., New York
Dec. 18: "Emerging Problems"
Arnold B. Hall, director, Institute for Government Research, Brookings Institution
Dec. 25: "Progress in Election Reforms"
Joseph P. Harris, University of Washington
Jan. 1: "State Reorganization"
Kirk H. Porter, University of Iowa
Jan. 8: "Protecting the Taxpayer"
Edward A. Filene, president, William Filene's Sons Company, Boston
Jan. 15: "Government Personnel"
L. D. Coffman, president, University of Minnesota; chairman, Commission of Inquiry on Public Service Personnel
Jan. 22: "Federal Help in Local Re-financing"
William Hard, publicist

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Jan. 29: "Taxation for Prosperity"
Willard Chevalier, vice-president, McGraw-Hill Publishing Company
Harold S. Buttenheim, editor, *American City Magazine*

**Conference on Research Sponsored by the Sub-Committee on Research of the Committee on Policy.** The Sub-Committee on Research invited some twenty members of the American Political Science Association to participate in a three-day conference on research, held at the University of Chicago on September 16, 17 and 18. The purpose of the conference was to secure a free and stimulating discussion of what seem to be the basic emerging problems of research in the field of government and politics. The committee hoped that there might develop a consensus of opinion as to what are some of the most fundamental problems now calling for research and as to how they might be most effectively attacked by the profession. Particularly, the committee sought advice as to questions of professional responsibility and leadership in the field of research. Throughout the conference, the chair was occupied by Professor Charles E. Merriam, of the University of Chicago.

Three topics were submitted, not as a restrictive agenda, but merely as points of departure for the discussion: (1) adaptation of the democratic process to the speed and technical requirements of the modern age; (2) the problem of areas, regionalism, federalism, and inter-governmental relationships in America today; and (3) the problem of financing governmental functions, with particular reference to the poorer states and communities. The first of these topics was utilized in the opening sessions as a broad province affording opportunity to mark out some of the important phases of the general interests of research. In the discussions of the following day, the second agenda item was narrowed down to consideration of research having particular reference to the Tennessee Valley Authority and to local rural areas. The more particularized discussion of these two focal points of curiosity developed a fair variety of suggestions that could be applied in other directions. On the third day, the last item of the agenda was disregarded and attention centered on summarization of the conference experience and formulation of specific advice to the sponsoring committee.

Obviously, the details of the discussions must be left to the record submitted to the Sub-Committee, and possibly it is in the by-products of the discussion rather than in the actual record itself that largest results are to be found. Broadly, however, the discussion permits of summary under seven rather distinct headings.

The first is the matter of aids to research. Consideration was given to the possible establishment of a periodical informational service to make available to research men information, suggestion, and direction, particularly information from government sources. The possible establishment of

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

a research clearing house to facilitate exchange of information and suggestion as to research in progress or contemplated was also discussed.

A second topic was that of greater coöperation among research groups and agencies. The various groups and organizations of related workers, both within and without the discipline of political science, were canvassed with a view to modes of possible coöperation.

Reporting and reception of research product, particularly popular and practical use of research findings, was a third topic to which the discussion frequently returned. Consideration was given to the inadequacy of publication facilities, the rôle of the expert in government, the nature of possible contributions of the expert to the governmental practitioner, the instrumentation of inventions and solutions devised by the expert, and means of popularizing the product of research and of reaching the layman leader.

At nearly every session the discussion also returned to the possibility of enumerating challenging questions for research. The proposal was deemed by some to be a means of wholesome direction and guidance; by others, to offer greater likelihood of misdirecting inquiry. The tendency of the conferees to break down broad topics for detailed attack and their interest in unexpected behavior in governmental situations might be thought to point the way to consideration of neglected sectors involved in all topics of political research.

A fifth matter that made its appearance again and again throughout the deliberations was the general nature of research, particularly the type of inquiry appropriate for those immediately in touch with practitioners, the type of research appropriate to the independent worker in the university, and the conditions, characteristics, opportunities, limitations, and interrelation of both divisions of investigation.

Frequently, too, the discussion approached the matter of particular workways of research. Needed development, adaptation, and integration of a variety of approaches and techniques were stressed; and apparently the disposition developed to ask for a later opportunity at which such matters could be considered in connection with the appraisal of several actual pieces of inquiry employing different approaches to the same substantive problem. For such an agenda, a number of items were suggested: the rôle of logical analysis, the rôle of ideology, the rôle of observation and the collection of data, modes of treating data, and the rôle of insight.

Finally, some attention was given to special need for the protection of the general interests of research; the problems raised by increasing censorship in many countries, the proprietary idea among research workers, and the opportunities for creating increasing relationships between researchers and practitioners in connection with the development of general planning staffs within the governmental organization.—H. C. Beyle.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

## BOOK REVIEWS AND NOTICES

*Aspects of Athenian Democracy.* By Robert J. Bonner. (Berkeley, Calif., University of California Press. 1933. Pp. viii, 200.)

This volume contains the Sather Classical Lectures at the University of California for the year 1933. Its eight chapters include a description of the political institutions of the Athenian democracy, and more particularly the way in which they worked, with brief references to their historical origin. The greatest amount of space is naturally given to the citizen assembly and the courts, the latter being the key to popular control over the magistrates and therefore the center of the democratic system. In addition to this description of institutions, the author discusses such essential aspects of democracy as freedom of speech and the meaning of citizenship, and also the effects of democracy upon Athenian literature and religion. The emphasis of the book is throughout on the practice of democracy at Athens and not upon its theory, Plato and Aristotle and the Funeral Oration in Thucydides being used as they throw light upon the operation of the institutions, but not particularly to show what philosophically-minded Greeks thought about their government.

The last chapter deals with Athenian imperialism, the relation of Athens to her allies and dependents, and the commercial regulations by which the empire was made profitable. This postponement of imperialism might perhaps be criticized on the ground of historical precision, since it tends to conceal the relation of imperial policy to the progress and fate of democracy in the city. The two were, of course, intimately related, as Professor Bonner suggests in several passages. The arrangement was doubtless dictated by the subordination of historical dynamics to political description.

The same consideration probably accounts for the fact that social and economic circumstances, certainly germane to democracy, are not treated at length, or even referred to very frequently. It would have been enlightening, for example, if the author had recanvassed the much discussed (and much misrepresented) question of slavery, its place in Athenian society, and its bearing on democracy, instead of passing it over with a not very clear sentence or two. It is surely misleading to say that "a large proportion" of Athenian citizens "were men of independent means whose money was the product of capital invested in slaves" (p. 94). Except for the silver mines at Laurium, the Athenian economy did not offer much place for a large-scale capitalistic exploitation of slavery such as this suggests, and the average Athenian artisan who employed a few slaves in his workshop can hardly be described as drawing an income from invested capital. The major criticism of the book is that it



LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

does not add to the chapters on democratic literature and religion an equally thorough study of other social arrangements, especially economic, which were quite as closely related to Athenian democracy.

Within the limits of political description which the book sets for itself, however, it furnishes a careful and judicial statement of the facts, neither giving undue weight to the criticisms that Greek authors, generally unfavorable to democracy, passed upon Athenian government, nor swayed by the too great enthusiasm that modern authors often feel for this first, and perhaps greatest, experiment in free citizenship. Professor Bonner sets forth clearly the main elements of Athenian government, with what is known of the way in which it was operated and by so doing has made a book that will be very useful to anyone desiring a knowledge of a government not much like any of those that exist today and which nevertheless embodies ideas that have never lost their political importance.

GEORGE H. SABINE.

*Cornell University.*

*Grundriss der Allgemeinen Staatslehre.* BY OTTO KOELLREUTTER. (Tübingen: J. C. B. Mohr. 1933. Pp. xii, 284.)

"We Germans of today, we National Socialists, perturb the world with what we desire, what we are, and what we plan, much more than Fascism has ever done." Thus commented Professor Friedrich Schönemann, after a brief visit to the United States last fall, in a recently (1934) published address on "America and National Socialism" before the Berlin Academy of Politics. He has, however, added that the "hostile" reaction of foreign public opinion may soon yield to a full "understanding" that Germany is "in fact already on the way" toward a "new German democracy."

Whether this "new German democracy" rests on rationally comprehensible foundations is a question which still puzzles many political scientists in this country. Dr. Koellreutter, professor of public law at the University of Munich, has come to their rescue by offering in his *Allgemeine Staatslehre* a timely and illustrative elaboration of the "authoritarian" state doctrine. He appears to be particularly qualified for such a task. For he is one of the very few academic teachers who identified themselves with the National Socialist cause at a time when that still involved personal exposure. On the other hand, he has, especially as editor of the well-known *Jahrbuch des öffentlichen Rechts*, displayed a profound scientific interest in comparative government ever since he published his instructive treatise on English administrative law (1912). And finally, the author commends himself by never riding on the crest of dogmatic infallibility. In the preface he modestly introduces his book as an "attempt the inadequacy of which is patent to me."

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Readers with preconceived views on Hitlerism will perhaps notice with surprise that the author rejects Carl Schmitt's definition of the political sphere based on the antagonism of friend and foe as "individualistic" (p. 14). Instead, his own concept of the political domain centers, entirely free from the conflict motive, around the "uniting" criterion of *Gemeinschaft*, i.e., community. Apart from its programmatic significance, the variation indicates the author's endeavor to adjust his theory of government to the actual social and economic interdependence of men which marks our age. It is that factual interdependence which inevitably transforms the state into the great "harmonizer of dissonances" and which gives weight to the ideological shift from individual emancipation toward civic coöperation. Consequently, Koellreutter applies the same idea of *Gemeinschaft* to the field of international relations. Here, too, the essential purpose of politics is not struggle but synthesis (p. 15). "International law as a legal order is, like every legal order, a guaranty of peace (*Friedensordnung*)." War "has no place in international law" (p. 230). In general, while "law without power cannot hold its ground, power without law becomes arbitrariness" (p. 74).

To the author, the "rule of law" (*Rechtsstaat* in the traditional German terminology) and "authoritarian" government are not incompatible as long as the independence of justice is maintained (p. 109). Yet, in addition, the "rule of law" implies that power may be wielded only according to, or at least within the frame-work of, legal rules imposed by political agencies which are representative of the governed. Just the same, the "authoritarian" state can be characterized as a democracy (p. 163) only in so far as its major problems are settled by representative organs. Koellreutter emphatically affirms the representative nature of the Italian and German *Führerstaat* (p. 116), although the representative process is obviously primarily a factual (extraconstitutional) phenomenon. People and state, he explains, are "as totality" represented by the exponent of state authority (p. 114). Authority, in turn, is no artificial (legitimistic) product, but "arises from genuine leadership" as an "act of grace" and requires "the confidence of the people" (p. 66). Or in more concrete terms: since the "authoritarian" state is essentially a one-party state in which *the* party not only generates the governing "élite" of subleaders but also "personifies" the people as a whole, the party head is "at the same time the political representative of the nation" (p. 166). And in order to eliminate dissension from the beginning, the *Führerstaat* must educate the "state youth" "consciously in its spirit" (p. 257) and utilize all means of political propaganda "in the service of the government and its aims" (p. 261). The political atmosphere brought about by this truly grandiose concentration of creed, law, and power can indeed hardly fail to insure complete "*compatibilità*."

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

It may be observed that any theory of government which features a "charismatic" selection of the "genuine" political leader definitely outgrows the pattern of traditional constitutional reasoning. This the author is probably as willing to admit as he has been disinclined to burden his thought-provoking volume with "senseless theoretical controversies" (p. v) with opponents who entertain a different *Weltanschauung*.

FRITZ MORSTEIN MARX.

*Princeton University.*

*The Method of Freedom.* BY WALTER LIPPMANN. (New York: The Macmillan Company. 1934. Pp. xi, 117.)

This book is made out of the Godkin lectures delivered at Harvard. In it Mr. Lippmann assures us that the modern state must intervene deeply into the economic affairs of its people. The restoration of the prewar economy has been made impossible by the "rise of democracy with all that that involves in the way of resistance and activity on the part of the masses of the people. As long as democracy was unconscious of its power, it was possible to let hard times be the purge of previous mistakes. But with democracy become active, there can no longer be a fatalistic acceptance of the purge. The debtor, threatened with the loss of his home, the worker thrown out of his job, the depositor threatened with the loss of his savings, are not willing to go through purgation. They fight back. They will, if necessary, overturn the government and the social order when their own security is destroyed."

The state may prevent the purge from taking place by setting up a system of Directed Economy, or Absolute Collectivism, as has been done in Russia, or by a system of Compensated Economy, or Free Collectivism. In the latter system, individuals are to continue to decide when they will buy and sell, spend and save, borrow and lend, expand and contract their enterprises, but "the government in its economic activities is in effect a gigantic public corporation which stands ready to throw its weight into the scales wherever and whenever it is necessary to redress the balance of private transactions. . . . The purpose of the intervention is not to impose an official pattern upon all enterprise, but to maintain a working, moving equilibrium in the complex of private transactions. In substance, the state undertakes to counteract the mass errors of the individualist crowd by doing the opposite of what the crowd is doing. . . ." Mr. Lippmann recognizes that serious difficulties are bound to arise in the operation of a free collectivism in a democratic state. The crowd which enjoys economic freedom also wields political power. "Will a democracy," he inquires, "authorize the government, which is its creature, to do the very opposite of what the majority at any time most wishes to do?" An affirmative answer to this question must await the reconstruction of de-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

mocracy, at least in the United States; for Mr. Lippmann concedes that "free collectivism is as incompatible with political democracy in its present manifestations as are the planned economy of Communism or the corporate state of Fascism." He believes, however, that the establishment of the right to work will, by extinguishing proletarian insecurity, create a society in which free collectivism is possible. The transfer of the initiative in financial matters from the legislature to the executive will help to thwart the selfish activities of transient majorities. But the method of freedom, whatever may be the mechanical devices necessary to secure it, requires a society of "free men with vested rights in their own living."

WILLIAM SEAL CARPENTER.

*Princeton University.*

*Preface to Action.* By GEORGE E. G. CATLIN. (New York: The Macmillan Company. 1934. Pp. 319.)

"This book . . . is not designed to provide any detailed plan of what politicians ought to do, or even to give any dogmatic advice upon how voters ought to vote. It is intended as a provocation to thought on our society and its structure." In Professor Catlin's phrase, "it is a matter, not of academic refinement, but of prejudice and taste." He has "sought merely to give some reasons for the faith that he holds."

It is a reasoned faith, the faith of a social scientist. Its premises are clear: (1) "The departmental scientist can do no more than expound the principles of his subject and indicate the technically best means consonant with them." (2) "No collection of 'facts' . . . , of itself, will decide action. What men actually want will decide that; and what men think they should want or are entitled to want is the most universal and permanent factor in the chaos of what they do want." (3) "What men think they want, in its turn, in large part rests upon . . . the general characteristics of human nature." (4) An adequate political philosophy, therefore, is to be based upon the common experience of the plain man. "Ultimately, political decisions turn on the ends we are aiming at. A discussion of those ends against the background of what we know of human nature is part of our problem. It [is] the main task of this book."

First, then, the author subjects to dispassionate analysis the major impulses of human nature—the erotic, the economic, the assertive, the religious—and the institutional forms necessary for their satisfaction. He concludes that our instinctive life demands, "for its stable satisfaction," "identification with otherness and the interests of others, which demand is the essential manifestation of religious desire." The world needs, and wants, a political religion. To serve durably, this religion must not be a substitute for reason; rather it must be "an emotional matrix which gives reason body." By this test, Professor Catlin, scrutinizes the religions of

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the nation-state, Catholicism, Toryism, Fascism, Communism. None answers. The adequate religion must find expression in the appropriate community. That community "must fit within a rational framework . . . of a world organization. . . . It must be homogeneous, at its most intimate a group of friends," most fruitfully, a small group of "co-workers, inspired by common ideas and with faith in persuasion," seeking "to work out these ideas effectively in practical life. In their freedom is the assurance of liberty. In this coöperation is the satisfaction of the religious need. In these movements are to be found the proper objects of contemporary religion. They are satisfactory in so far as they satisfy the tests of reason, in fact inspire impersonal devotion to an ideal and enable the human being to experience the emotion of satisfied love for his fellows."

The author tells us that his book is "designed for ordinary folk." The style, discursive as intelligent conversation, aids this design. But the book does more. In these days when the learning and the function of the social scientists are peculiarly under public discussion, Professor Catlin has done his colleagues a needed service and done it well. While the "ordinary folk" are implicitly cautioned against apotheosizing the principles of politics, the political scientist is eloquently challenged to consider the non-rational elements of human nature as relevant to his discipline. The thesis of Graham Wallas is expanded to demand that the political scientist must be also political philosopher. In Professor Catlin we find a synthesis of the flaming sense of fraternity that was Mazzini with the sense of the revolutionary import of thought that was Marx. It is to be hoped that others, with like attitude of mind, will engage with Professor Catlin in "a personal pilgrimage among political ideas." Values, viewed in the light of the facts of human nature, are "a part of our problem."

ALLAN F. SAUNDERS.

*Scripps College.*

*A History of Bolshevism.* By ARTHUR ROSENBERG. (London: Oxford University Press. 1934. Pp. 250.)

In this exceptionally interesting and well written book, the author, who was a member of the German Communist party from 1920 to 1927, portrays Bolshevik theory and practice against the background of post-war revolutionary movements in Europe and Asia. He contends that Soviet rule, at first democratic in character, was transformed during the period of civil war and war communism into a strict dictatorship of the Bolshevik party, justified on the ground that it represented the interests and desires of the proletariat. Russia, in his opinion, has failed to achieve true socialism. It is "a peasants' and workers' state, organized in accordance with a system of state capitalism by means of which the govern-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ment contrives to maintain its hold over both the basic classes of the population."

The indubitable successes achieved by the Soviet government at home are responsible, in Rosenberg's opinion, for the failure of the world revolution whose leadership the Bolsheviks had assumed with the establishment of the Third International in 1919. The period of militant activity on the part of the Third International, 1919–21, roughly coincided with the period of war communism in Soviet Russia. While conditions in several European countries, notably Germany and Italy, were at that time ripe for revolution, the Third International failed to make use of its opportunity. Its attempt to impose a uniform course of action on Communist parties confronted by a wide diversity of political and economic conditions hampered the development of genuine Communist movements in Western Europe, while its dogmatism alienated former Socialists and Syndicalists who had been converted to Communism. With the introduction of the New Economic Policy, moreover, the Soviet government turned from revolution to economic reconstruction; and in its efforts to achieve this reconstruction it sought collaboration with capitalist states, which offered credits, markets, and manufactured goods. This change in Soviet domestic and foreign policy was immediately reflected by the Third International, which shifted from an offensive to a defensive position. Rosenberg doubts that the Communist parties artificially organized from above in 1919–21 were in any case capable of revolutionary action; but if such capacity existed, it was paralyzed by the policy of the Third International after 1921. The question, as he sees it, became one of whether "the government of a Soviet Russia organized in accordance with the principles of state capitalism would be capable of directing the proletariat of the world in its struggle with capitalism."

The Third International, having lost its value as the spearhead of world revolution, has since frequently embarrassed the Soviet government in foreign affairs. According to Rosenberg, however, the Third International retains a certain significance for Soviet leaders as a mouthpiece for preaching the revolutionary ideals which, in the author's opinion, the Soviet government itself no longer practices. The continued progress of Russia within the framework of the policy "socialism in a single country" is possible, says Rosenberg, only at the cost of Russia's complete separation from world revolution. Nor can the Communists of Western Europe look for leadership to the Bolsheviks, whose methods, progressive when compared with those of Tsarism, proved reactionary when applied to the leading Western countries, "where the proletariat has already learned to create and control its own organizations." The Third International, Rosenberg concludes, has no longer any influence on the course of the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

world proletarian movement; "if today the international middle class still fears Bolshevism, it does so because it misunderstands the present nature of Bolshevism.

VERA MICHELES DEAN.

*Foreign Policy Association.*

*Foreign Relations in British Labor Politics.* BY WILLIAM P. MADDOX. (Cambridge, Mass.: Harvard University Press. 1934. Pp. xv, 253.)

Here is a pioneer study in the exploration of the genesis of those forces which ultimately play upon and help to forge the foreign policy of states. With rare exception, and without parallel for any such period as this—a quarter century—has any attempt been made to discover and portray the growth of a political party's program in any field, and least of all in the area of foreign policy. The author's sub-title, a study of the formulation of party attitudes on foreign affairs, and the application of political pressure designed to influence government policy," indicates the scope of the volume. The period selected, from 1900 to the advent to office of the party in 1924, was a germinal one for those policies which it attempted to put into effect, in many instances successfully, during its brief tenure of the Government front benches.

Dr. Maddox has gone principally to the records of the party congresses and the memoirs of the leaders of the party for his analysis of the forces and conditions affecting the formulation of policy. But he has pushed back of the formal aspects of party action to discover the roots of feeling and interest which underlie specific party statements. Out of the more or less clearly conceived interests of the mass of the party's adherents as a distinct and coherent group of workers and their allies in the coöperative and other movements, there emerged during the first quarter of the twentieth century a set of working principles regarding foreign policy—principles vague in their formulation, and not always precise or consistent in their proposed application. It was largely the work of specific leaders who rose to power within the ranks of the party to give these ideas both content and currency; foreign policy, with its increasing intricacy of detail, came, indeed, to be associated with particular leaders and to be the official platform of the party as these leaders and the groups behind them came to control in the party hierarchy. In this process, various groups played a part: the influence of the international labor movement was important; the old-line trade union leaders gradually acquired specific attitudes upon particular matters of foreign policy; the intellectuals who joined the ranks of the party both before and after the war enriched its understanding of and emphasis upon foreign affairs, and at the same time provided it with experts on many questions.

Out of these elements were forged the party attitudes on an ever-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

widening range of interests. It is to the processes by which these attitudes were translated into action within the party itself and upon Parliament and the Government that Dr. Maddox devotes his attention in the second section of his study. The actions of the Annual Conference, the decisions of the executive committee of the party, the influence of such independent groups within the labor movement as the I. L. P. and the Trades Union Congress, and, finally, the "interaction" of the international and national movements, are analyzed with respect to their effect upon the formulation of foreign policy programs. Finally, the author discusses the actual methods of political propaganda in the country and the action of the Parliamentary Labor party while in opposition. His conclusion that, whatever the particular foreign policy, nationalistic or international, that may emerge in the democratic countries, "the possibility that wise and effective group leadership may control a loyal, cohesive, and even uninformed mass," is amply illustrated by his study. It is greatly to be hoped that others will be inspired to undertake similar studies of party action in foreign affairs; no field offers richer opportunity for insight into the political controls in this significant area of politics.

PHILLIPS BRADLEY.

*Amherst College.*

*Sanctions and Treaty Enforcement.* By PAYSON S. WILD, JR. (Cambridge, Mass.: Harvard University Press. 1934. Pp. 231.)

Here is an able monograph on a most important subject which has been considerably neglected by writers on international law. Few have defined *sanctions* with any exactness or examined carefully into their diverse operations. The Austinians, of course, have tried to restrict the meaning of sanction to the penalty provided by law through the courts, and thereby have dogmatically excluded international law from the realm of true law.

Mr. Wild traces in a lucid and scholarly manner the development of the idea of sanctions from the primitive proscription of an outlaw (*sacer*) through the solemn invocation of divine support and retribution, to the modern insistence on sanctions in the form of guarantees and penalties. He vividly sets forth the inherent difficulties in the practical application of economic and military sanctions provided by Article 16 of the Covenant of the League of Nations, and in fact, of any sanctions affecting the interests of millions of peoples in different nations. His emphasis, as the title of the book indicates, is on treaty sanctions, though he does not fail to stress the deeper problem of the sanctions behind the whole body of international law. His conclusions apply to the entire field of international relations and reveal the fundamental truth that the enforcement of all obligations and the protection of all rights among nations is essentially a

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

*political* question. He demonstrates most convincingly that the inherent vice in any plan for international penalties lies in the failure to realize that no people will readily accept any form of coercion so long as they believe that the status quo is wrong and that the revision of unjust treaties by legal, peaceful processes is unattainable. It is only fair to quote his own words on this most important matter:

"The coercive sanctions proponents set up the peace of the world as their end-all and be-all; it is their absolute, their standard. With cogency, they argue that unless an attempt is made to restrain a nation through a threat of international peace action, there is likely to be war or widespread use of force, and that even if force sanctions do lead to war involving whole peoples vs. whole peoples, conflict would be inevitable anyway since nations would resist attempts by any other states to dominate them. An answer to such reasoning is not easy, but the assault upon this fortress of logic may be directed at its foundation. The fundamental premise of the security logicians is that the peace of the world, namely, the status quo, is something to be preserved at all costs and that the nation which violates it is the "criminal," the aggressor." It is that premise which is questioned. The tests of aggression, the means suggested to date for determining which state is right and which is wrong, and which merits community aid and which does not, are not sufficiently convincing. To brand a state as "criminal" because it violates a frontier or a treaty is to pass superficial judgment without going into the underlying racial and political factors, and to enter into these at the present time is to penetrate into an almost hopeless tangle of historic national greivances and psychoses. It is true that the existence of policemen helps to build up a sense of law and order, but originally before the policeman, there must be *some* consensus as to the kind and type of order desired. There must be agreement upon ends before a community capable of maintaining a police force can come into being. Looking at the veritable jungleland of world politics today, it does not seem either expedient or reasonable to set police forces operating until more ground is cleared, more thickets of national passion cut down, more chance to see what kind of system is going to emanate from present conditions. This absence of an international standard of justice as regards the fundamental pattern of world society is one of the basic reasons, whether conscious or not, why states are so reluctant to subscribe to police force plans. The tests of aggression appear too superficial, and the dislike of obliging oneself to participate in action taken on behalf of causes of whose rightness one is not so very sure is too intense, to permit much progress along the route of collective action.

"Further, in any true community, sanctions in the form of police action are not the most decisive factor in securing obedience. The latter is de-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

pendent upon a will for the community which all the police in the world cannot inculcate. Order and obedience rest upon a foundation far more solid than that of clubs and bayonets. If the only way individuals can be kept in line is by threats of punishment, the community is extinct. Similarly, internationally, states will keep the peace when they *want* to. The creation of that desire on their part is far more important than the making of threats of punishment when it is not clear just why or when punishment is due. The desire for peace is dependent upon the kind of peace, and only time can tell what that will be. Sanctions are important *after* there is more of a community than exists among nations today; they are not the most essential ingredient in its composition. Sanctions were made not to run the community but to be run *by* it for community ends. Lacking the ends, how are very potent sanctions possible?" (pp. 215–218.)

The foregoing extracts, which have not been unduly wrested from their context, may serve to suggest something of the stimulating quality of this book. It opens wide a vast field of exploration and investigation. It deals essentially with realities which must be faced honestly and fearlessly by all internationalists who are seeking to substitute peaceful means of attaining justice for war and less crude methods of coercion. It has suggested to my mind this basic definition of sanction: The ultimate authority of law, and hence the sanction of law, consists in its inherent reasonableness, and, as in the physical world, in the inevitability of cause and effect. Relationships produce their inescapable results. The law that applies with inexorable logic to these relationships and consequences possesses *per se* its own compelling sanction which is independent of the penalties imposed by the state. A penalty which does not possess this intrinsic sanction is of slight value. The whole system of international justice and peace would seem to depend ultimately upon such a sanction.

It seems to be the unpleasant function of a reviewer, partly to prove the meticulous care with which he has read a book, to point out minor errors. This excellent volume has an unfortunate number of blemishes in the form of typographical errors of an egregious sort due to careless reading of proof; though, in all fairness, such slips as references to *Sir* Robert Cecil, and the Battle of the *Claudine* Forks can hardly be classified as merely typographical.

PHILIP MARSHALL BROWN.

*Princeton University.*

*Tariff Retaliation; Repercussions of the Hawley-Smoot Bill.* By JOSEPH M. JONES, JR. (Philadelphia: University of Pennsylvania Press. 1934. Pp. x, 352.)

As a case history of the extent and methods of modern economic warfare, this book is of first-rate importance. While, as the sub-title indicates,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Mr. Jones' prime purpose in his two years of research abroad was to study the foreign repercussions to the Hawley-Smoot tariff, his completed volume is really much broader in scope, providing a lucid and graphic analysis of the operation of the forces which in the countries studied (Spain, Italy, France, Austria, England, Switzerland, and Canada) have pushed commercial policies toward economic nationalism. It is a devastating and uncomfortable picture, and one which will give little cheer to those who minimize the importance of reviving international trade.

Nor, for that matter, will it give cheer to those who have believed in the infallibility of Republican party tariff policy. The author's indictment is scathing, not because he has developed a flair for invective, but because the materials which he has assembled speak eloquently enough for themselves. Raising tariff walls when the world's interests—and our own—demanded that they be lowered, we have fought to retain foreign markets by stressing our right to an unconditional most-favored-nation status, and we have conceded in return only an "equality of negation" which is an indefensible abuse of our sovereign rights. Mr. Jones is not impressed by the various devices—the flexible clause, the penalty provisions, the Tariff Commission—by which the inflexibility of our past tariff system has allegedly been mitigated. In practice, they have all been worse than useless.

The actual cases of retaliation have been carefully studied. In each country, the analysis has gone beyond a collection of officially announced retaliatory measures and the resulting statistics on our export decline. The author has talked with agents for American products, has canvassed the press, and has looked into the propaganda of domestic and other foreign manufacturers who very properly seized upon the American tariff as a convenient weapon with which to destroy established American markets. This study of unofficial and semi-official methods of retaliation by pressure brought to bear upon the potential purchasers of American goods is exceptionally well done.

Any solution for the *impasse* into which our tariff policy has helped to lead us is admittedly difficult. Mr. Jones believes, with Secretary Wallace, that we should end our vacillation and decide upon a definite course of nationalism or internationalism. To achieve the latter or, failing that, a middle course, we must extend the practice of negotiated reciprocal tariffs through which we may speed a return of confidence in the unconditional most-favored-nation clause. Since the use of this clause is not inconsistent with tariff bargaining, American support, honestly directed, may redeem its lost prestige and restore it to good standing in international practice.

In general, Congress may "indicate . . . the lines which American tariff policy shall follow," but should then "voluntarily relinquish to

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the President and his executive departments the difficult task of setting tariff rates for the best interests of the whole nation." This is admittedly Utopian, but no one can seriously challenge the author's contention that American leadership in the field of commercial policy cannot be exercised intelligently under our present archaic practice whereby the many permit themselves to be exploited for the benefit of the few.

GRAYSON L. KIRK.

*University of Wisconsin.*

*Australia in the World Crisis, 1929–1933.* By DOUGLAS COPLAND. (New York: The Macmillan Company. 1934. Pp. xii, 212.)

*An Introduction to Some Problems of Australian Federalism.* By KENNETH O. WARNER. University of Washington Publications in the Social Sciences, Vol. 9, pp. 1–312. (Seattle: University of Washington Press. 1933. Pp. xi, 312.)

The strain upon governmental institutions everywhere, during the economic crises of the past five years, has brought to the foreground problems relating to the allocation of functions and financial burdens among governmental units. This has been especially true of federal states, so that these two discussions of recent Australian experience are of immediate interest to American students. Professor Copland's volume comprises the eight Alfred Marshall lectures which he delivered at the University of Cambridge during the autumn of 1933. In published form, they have been fortified by the addition of ample footnotes, numerous charts and statistical tables throughout the text and in the appendix, and a useful chronological table of recent economic events in Australia. In this country, Professor Copland would be called a member of the "brain trust." He is head of the department of commerce at the University of Melbourne, the author of numerous works on contemporary Australian economic problems, and has served on the principal committees (notably that bearing his name) which have made investigations and recommendations during their period of readjustment. Thus he has had exceptional opportunities to explore the various aspects of his subject, and to determine the factors which are most important in presenting it to his audience. The result is an extremely lucid and well-organized discussion of the salient elements in the Australian situation, and the successive policies invoked to deal with them.

As Professor Copland points out, the advent of the depression in Australia was signalized by a sudden drop in export prices and in capital imports. The consequent loss of national income was the central problem, and the distribution of this loss the fundamental condition of recovery. After a year and a half of reliance upon expediency, the country rejected

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

both whole-hearted deflation and inflation, and sought a judicious combination of these two policies. The middle-ground philosophy, as set forth by various committees of economists, endeavors to restore economic equilibrium by lifting the burden of loss from export producers, and to attain budget equilibrium by economies and restoration of money income. The main features have been a reduction of ten per cent in government costs, real wages, and fixed charges, a measure of currency depreciation, and the expansion of central bank credit. Despite the decentralized constitutional system, and the opposition of organized economic interests, powerful elements of flexibility were contributed to the economic structure by certain institutions of central control which had been developed, notably the Loan Council, the Commonwealth Bank, and the Arbitration Court. The first of these is of particular interest to students of federalism. The Loan Council was the corollary of the financial agreement of 1927 between the Commonwealth and the states (implemented by a constitutional amendment and supplementary legislation by the several governments). Through its control over the borrowing powers of the seven governments, it became, in a period of deficits, the central budgetary authority, and the channel through which the Commonwealth Bank could influence financial policy. As regards refunding, Australia boldly took the stand that, since the actual meaning of the contract had been altered by rapid economic changes, interference with contract was itself an integral element in a constructive policy. In general, Professor Copland looks to improved trade relations with the Far East; he expects a continuance of the lowered standard of living, is skeptical of government interference with free enterprise, and deprecates reliance upon high protection.

Despite its title, Professor Warner's study is essentially descriptive. The first part deals with the relations of the several branches of the federal and state governments in general—constituent, legislative, administrative, and judicial—and also includes a chapter on questions concerning the government railways. The second part of the work is devoted to the main objective of the study, Commonwealth-state financial relationships—the constitutional bases, federal assistance to states, relations with state banks, questions of taxation, and the effects of the tariff. The author has assiduously explored the data upon the multifarious aspects of his subject, and undertaken a great deal of detailed analysis. An excellent feature is the attention devoted to work-a-day administrative questions and relationships, not merely to constitutional foundations. The main body of the study is carried down to 1930, but subsequent developments are sketched rapidly in an appendix. Perhaps the main shortcoming is the failure, relatively, in organizing the material, to make the salient factors and problems stand out clearly enough from the back-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ground of detail, and to interpret upon broader lines. Moreover, federations are bundles of political compromises, and underlying political forces condition constitutional issues and developments. In the present juncture in Australia, these factors might perhaps have been accorded more emphasis, despite the point of view from which the study was undertaken.

A. GORDON DEWEY.

*Union College.*

*The Coming American Revolution.* By GEORGE SOULE. (New York: The Macmillan Company. 1934. Pp. 314.)

In this book, Mr. Soule defines revolution as not a sudden violent political overturn, but a single cycle in a long evolutionary process. It reaches a climax when a new class achieving power must defend its gains by force. The Puritan, American, French, and Russian revolutions are cited as examples.

There follow the two best sections of the book. The first deals with changes in our economic structure—machines and the increased productivity of labor; production for mass consumption in a system which tends proportionately to reduce mass purchasing power; concentration of control; the development of rigidities such as the debt structure, commodities with inelastic demands, etc. The second deals with the crisis: it points out the relative unimportance of the money controversy; makes an analysis of Hooverism—a class phenomenon of which Hoover was merely the public representative; analyzes the New Deal—the failure to reform the banking system fundamentally, the deflation of wages while maintaining interest, the establishing of codes drafted by and for employers, enacting social legislation without adequate enforcement machinery, and the rise of the white-collar and professional class.

Mr. Soule concludes with, in his own words, "speculative guesses." They are: there is likely to be a business revival in the midst of industrial and social depression; a social-reform movement is the usual concomitant of the twilight of capitalism; Communism has neither power nor momentum in the American social order; the materials of Fascism are abundant (aggressive labor activity will likely turn our present economic Fascism into a definite political form); and finally: "Just as feudalism was compelled in the end to give way to the rise of the middle classes and capitalism, so capitalism must in the end give way to the rise of the working classes and Socialism."

Social prediction must rest upon a correct and accurate analysis of the factors determining the flow of events. Mr. Soule's analysis is excellent, but not altogether accurate and not complete. The revolutions which he describes as the rise of the commercial and industrial classes

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

to power are not comparable with the Russian revolution in the sense of following the formula which Mr. Soule develops for revolutions: the crumbling of one class accompanied by the rise to power of another, climaxed by a brief violent struggle as the balance of power shifts. Certainly the coming into power of the present Russian rulers is a phenomenon vastly different from the seizure of power by the commercial and industrial classes. In this same connection, it may be doubted whether the white-collar and professional class, which Mr. Soule so often mentions, is the prospective candidate to take power from the capitalists.

A second, and more important, point is that Mr. Soule has almost entirely omitted an analytical consideration of social psychology. I believe this to be of fundamental importance, because such movements as, for example, the consumers' coöperative movement, or any genuine form of Socialism, require a good deal of *esprit de corps*. With the decline of trade unionism and the rise of the industrial union, the need for which mechanized industry is making plain, it becomes increasingly difficult to organize the mass of men for coherent and unified action over a long period of time. Practically every analysis of the decline of Rome refers to this aspect of social psychology—the lack of dynamic for any popular movement to overcome the weight of the military and the bureaucracy —both of which factors are receiving increasing employment under the New Deal. There is the suspicion that the coming American revolution may consist of long decades of administrative turmoil under the tutelage of an autocratic politics, the handmaiden of an equally autocratic capitalism whose dynamic virulence will have declined, but whose petrified forms will long determine the general outlines of our society.

HARVEY PINNEY.

*New York University.*

*A History of the Vice-Presidency of the United States.* By LOUIS CLINTON HATCH. Revised and edited by Earl L. Shoup. (New York: The American Historical Society, Inc. 1934. Pp. viii, 437.)

This book is an elaborate and detailed historical exposition of the political events which have surrounded one of the nation's most obscure offices, and represents the first comprehensive attempt ever made to bring to light the many and varied experiences of the "shadowy creatures" who have humbly performed the functions of this "ill-conceived" office. The study was begun by the late Dr. Louis Clinton Hatch in 1927, and was unfinished at the time of his death in 1931. The type-written manuscript was taken over by Professor Shoup, and although handicapped by the unavailability of the author's original notes and long-hand text, Professor Shoup revised and edited the textual matter and completed several of the unfinished concluding chapters.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The subject-matter is presented in two parts, the chapters in Part I dealing with the origin of the vice-presidency; the vice-presidential oath and inauguration; the varied relations between the several presidents and their "heirs apparent"; the succession to the presidency; the social and ceremonial duties of a vice-president; and his rôle as presiding officer of the Senate. In developing these topics, the authors apparently gathered bits of information scattered here and there over the whole period of our national history, and carefully pieced them together to form an interesting story never before told.

The second and major part of the work is an account of vice-presidential nominations and elections, chronologically arranged, and somewhat resembling in method of treatment Edward Stanwood's *History of the Presidency*. The forces responsible for the nomination of certain persons as the vice-presidential candidates of the several political parties, together with a short characterization of each candidate, popular reaction to the nominations, and accounts of the various campaigns and elections are clearly and ably presented.

In concluding their study, the authors point out that in general the vice-presidency has worked "true to the plan" of the framers in that it has provided "a succession to the executive leadership of the nation . . . free of legal doubt, and prompt and automatic in operation." As to the records of the six vice-presidents who have actually succeeded to the presidency, it is observed that their executive abilities "struck about an average for the office," with "one administration [that of Andrew Johnson] representing the extreme of ineffectiveness, another [that of Theodore Roosevelt] standing among the ablest, and four [those of Tyler, Fillmore, Arthur, and Coolidge] thrown in with the colorless mediocre." It is suggested further that "greater care on the part of party managers in the choosing of vice-presidential candidates is needed." However, so long as "the nomination is only a pawn in the winning of a doubtful state," it seems unlikely that nominating practices will be improved until we abandon our outworn electoral system for "some form of direct popular election. . . ."

Taken as a whole, the volume contains a vast amount of historical information, and is a useful and welcome addition to the scanty published materials dealing with the subject. In this sense, it is a real contribution. However, the study fails to present any new constructive proposals for remodelling or improving the office of the vice-president. Perhaps its value as an historical study is somewhat lessened by the fact that although there are a few scattered footnotes, no bibliography is furnished to indicate the nature of the source materials used. From occasional references in the text, it appears that the chief sources were the biographies and letters of the presidents and vice-presidents and their contemporaries,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

and newspapers and magazines. There are few references to indicate whether the writers made any extensive use of the Congressional documents in dealing with the relations between the vice-president and the Senate, or of the official proceedings of the several party conventions in discussing the nominations of the vice-presidents.

Although the reviewer believes that this is an exhaustive and thorough study, it is suggested, without intending to detract from the excellence of the study itself, that most of the information presented has little practical significance. One may close the covers of the volume in perfect harmony with the opinion of Woodrow Wilson that the "chief embarrassment" in discussing the vice-presidency is "that in explaining how little there is to be said about it one has evidently said all there is to say."

ALDEN L. POWELL.

*University of Illinois.*

*Election Administration in the United States.* By JOSEPH P. HARRIS. (Washington: Brookings Institution. 1934. Pp. xi, 453.)

In a democratic state, the electoral process is, of course, of central importance. Dr. Harris made a notable contribution to the better understanding of this process by his *Registration of Voters in the United States*, published five years ago. On the same generous scale, his present work is an even more valuable contribution. After all, registration is a preliminary; the election's the thing.

Overhead organization and the rank and file of election officials, the conduct of elections, ballots, voting machines, absent voting, the canvass, recounts, and election costs are the principal topics discussed by Dr. Harris. From a picaresque point of view, the most interesting of his chapters is that devoted to election frauds in which, as usual, Philadelphia ballot-box stuffers are given stellar rôles. A Model Election Administration System, previously published as a committee report of the National Municipal League, is also reproduced. From the practical point of view, it is the most important chapter in the book. A brief discussion of election statistics in the United States completes the volume.

Dr. Harris has handled the immense documentary material of his subject, including the election laws of our forty-eight commonwealths, with consummate skill. In addition to legal texts, he has drawn largely upon actual observation, also from conversations with election officials, members of reform organizations, and well informed citizens, and finally from books, pamphlets, periodicals, and newspapers. Just as the publication of his study of registration procedure was followed by numerous improvements in that field, it is not too much to hope that the present volume will become an arsenal of facts, arguments, and definite reform

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

proposals for all interested in the betterment of our election administration.

There is nothing hypercritical in the attitude of Dr. Harris toward American elections in general. Frank as he is with regard to certain persistent evils, his discussion as a whole does not give aid and comfort to those advocates of dictatorship who cannot mention a popular vote without frothing at the mouth. On the other hand, all improvements made in our election procedure are duly noted, in particular the elimination since 1900 of violence and, to a less degree, of fraud. As to the debit side of the ledger, full but not alarmist treatment is given to our badly organized election system, cluttered up with legislative antiques and manned by an inferior personnel—hence a system that, especially with our too numerous elections, is excessively costly and, except where voting machines are used, much less accurate than is desirable.

Perhaps Dr. Harris bears down a bit too heavily on the last-mentioned point. No doubt bank clerks are far more accurate than polling clerks. There are several fairly obvious reasons why this is the case. On the other hand, many banks have not been conspicuously successful of recent years in repaying depositors the sums so neatly and exactly set down in passbooks. And despite all the evils of election procedure, there is much more popular confidence in it than there was in the banks of the United States until deposits were guaranteed by the action of popularly elected governmental authorities.

Substitution of filing fees for direct primary petitions is objectionable from the point of view of minority parties. Without ever electing a candidate, the latter make valuable contributions to our national life. Nor during a considerable experience with the circulation of nominating petitions has the present writer discovered that the average person will usually sign anything placed before him.

In his final chapter, Dr. Harris observes that "elections, which are the basis of our many governments, are important enough to warrant the publication of systematic, orderly, regular, and complete statistics." Many a student has made a similar remark, perhaps in shorter and uglier words, as he has leafed through the very defective compilations of newspaper almanacs. Why should not the American Political Science Association appoint a committee to push the detailed plan which accompanies this valuable suggestion, not only at our state capitals, but also at Washington? Perhaps in time our national government may produce a statistical treatise as creditable as F. Giovanoli's *Statistik der Nationalratswahlen*, published by the Swiss federation in 1929.

ROBERT C. BROOKS.

*Swarthmore College.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

*City Government in the United States.* By CHARLES M. KNEIER. (New York: Harper and Brothers. 1934. Pp. vii, 482.)

Professor Kneier's text on municipal government follows the conventional scope and arrangement found in similar texts by Munro, Anderson, Reed, Macdonald, and others. It is designed to meet the needs of the college undergraduate in the first course in municipal government. It does not deal with the functions or activities of cities, but is confined to such topics as the growth of cities, the relations of the city to the state, municipal elections and politics, forms of government, and civil service.

There are, however, several chapters dealing with topics usually discussed only briefly and incidentally in similar texts, such as urban representation in state legislatures, the relation of cities to the national government, and public opinion. The problem of state administrative supervision over cities, of particular interest today, is well set forth in a special chapter, which covers the recent developments in this connection.

Eight chapters are devoted to suffrage, elections, nominations, and the other political aspects of city government. The author states that the text is designed to present the government of American cities as a problem in democracy. One wonders whether such extended treatment does not constitute an undue duplication of other courses, e.g., on political parties and on state and national government. Perhaps some duplication is unavoidable as long as political science courses dealing with geographical units of government are offered, but it would seem preferable to reduce this duplication by minimizing or omitting those topics which are treated in other courses. The fundamental solution awaits the reorganization of political science courses along functional or subject lines.

The text under review is especially well documented. The author not only cites very extensive sources in the footnotes, but presents many terse quotations, particularly to indicate different points of view. The references are up to date, and particular attention is given to recent events.

Several minor criticisms may be offered. Two chapter titles are somewhat misleading. The second chapter, on "The Political Consequences of Urbanization," really deals only with the increase in the cost of city government, and the chapter on "Administrative Organization" is devoted almost entirely to civil service. More than half of the chapter on city councils is devoted to proportional representation, which would hardly seem warranted in view of the fact that only three cities in the United States use P. R. The author presents an amazingly large amount of factual detail, much of which deals with subjects constantly changing, and hence inaccuracies are inevitable. For example, the table on p. 188, showing the frequency of registration in the largest cities in the country,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

is quite out of date, many states having recently adopted permanent registration.

The student, or general reader, will find this book well adapted to acquaint him with the important problems of municipal government. It is superior in several regards to the other excellent texts dealing with the same subject, particularly in its wealth of factual information, its copious references to source materials in the footnotes, its extended treatment of recent developments, and its impartial and scholarly treatment of controversial issues.

JOSEPH P. HARRIS.

*University of Washington.*

*The General Welfare Clause; A Study of the Power of Congress under the Constitution of the United States.* BY JAMES FRANCIS LAWSON. (Washington: The Congressional Press. 1934. Pp. 388.)

This is the second printing of a volume which was privately printed and originally issued in 1926. In the preface to the second printing, the author explains that it is "the outgrowth of more than fifteen years of experience in legal work for the United States." His thesis is that the power granted the Congress in Article I, Section 8, "to lay and collect taxes, duties, imports and excises, to pay the debts and provide for the common defense and general welfare of the United States; . . ." is what it purports to be, i.e., "a general grant of unlimited power to be utilized by Congress in its own discretion for the common defense and general welfare of the United States." Mr. Lawson boldly asserts that judicial decisions to the contrary are mostly *obiter dicta*. He looks upon the doctrine of "limited government" as erroneous and fraught with danger to the American people, and declares that "the sole rule of construction adduced to uphold it is rejected by the Court in dealing with its own grant and with the executive power."

The author devotes a long chapter to the proceedings of the Constitutional Convention of 1787, particularly as preserved in Madison's *Notes*, and reaches the conclusion that "no fair-minded student of these records can conclude that this clause [the general welfare clause] came into the Constitution as a meaningless generality, or as a limitation upon the taxing power." He answers the Tenth Amendment by saying: "If the power to provide for the general welfare is expressed in the first of the enumerated powers, and not excluded by any other clause, it is a delegated power, unaffected by the Tenth Amendment." He declares that "the powers of Congress are largely concurrent with those of the states, and are given in full expectation that they will be called into operation only after failure of state legislation to accomplish the objects for which the powers are designed."

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Although the author does not specifically mention the "New Deal" legislation, he appears to have it in mind in his preface, when he says that since the first printing, "the people of the country have with surprising unanimity turned to the federal government for relief from economic ills, in a movement so momentous as to be revolutionary, and so determined as to outlast any emergency." "New Dealers," grasping for constitutional straws to support their aims, will find much comfort in the author's logic and in the voluminous citations and quotations which he has amassed to sustain his thesis. Perhaps the fears of Elbridge Gerry, Luther Martin, and George Mason that the federal government under the Constitution would be able to do as it pleased are about to be realized under a new interpretation of the general welfare clause.

FRANK E. HORACK.

*State University of Iowa.*

*The Sales Tax in the American States.* BY CARL SHOUP AND STAFF ASSOCIATES, under the direction of Robert M. Haig. (New York: Columbia University Press. 1934. Pp. xxv, 833.)

Perhaps the most obvious characteristic of this work by Professor Shoup and his associates is its timeliness. The second is its failure to be up to date. The former arises from the character of the undertaking; the latter not from carelessness on the part of the authors, but from the nature of the subject-matter with which the investigation is concerned. There has been so much gross sales tax legislation recently that, although this volume appears to have been revised after being set up, it fails to include a considerable volume of sales tax history of the present calendar year.

The study resulted from a grant made by the Rockefeller Foundation for the purpose of outlining the growth of the sales-tax movement and of analyzing some of its results. The group of scholars to which the study was entrusted has done a magnificent job, and it may be said that the $28,000 devoted to the investigation has purchased at least as much as could reasonably have been expected.

Part I, comprising the first one hundred pages of the volume, constitutes a summary of the results of the entire study, made by Professor Shoup. From the point of view of one interested in the results of the investigation, as distinguished from the research student concerned with both findings and methodology on the one hand and the administrator who needs details on the other, this first part constitutes a sufficiently full statement. In the last chapter of this summary (pp. 100–108 inclusive), Professor Shoup has indicated his own evaluation of the state gross sales tax in explicit terms. In this conclusion, Professor Haig, under

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

whose general direction the investigation was conducted, concurs (p. vii).

Among other things, Professor Shoup says: "In common with most professional students of taxation in this country, the writer has had an unfavorable opinion of the sales tax, although he has not believed it to be by any means unworkable or impracticable with respect to raising considerable amounts of revenue. The results of the present study have caused him to favor the tax even less than before, chiefly because of the indications found with respect to the distribution of its burden. As an emergency source of revenue, the tax has the undeniable advantage of yielding a certain amount of money quickly; but it is not the only tax possessing this virtue. It should not be difficult for the professional student, though removed from the immediate arena of contest, to sympathize with the actions of legislators and others in many states who have been trapped by constitutional limitations on the taxing power and by the threats of articulate and powerful groups who would be injured by resort to forms of emergency revenue other than the sales tax. Nevertheless, in the writer's opinion, the sales tax as an emergency form of revenue, and certainly as a permanent part of any state's tax system, marks an unnecessary and backward step in taxation" (pp. 107–108).

Part II (pp. 111–317 inclusive) constitutes a brief summary of the factual material bearing on the development of the sales-tax issue in each of the states which, prior to about November, 1933, had developed a strong gross sales tax movement, whether a statute had been enacted or not. Each of these discussions follows a uniform plan of presentation. After a brief introductory statement, there is an outline of the development of the fiscal situation since 1929, followed by a consideration of the development of the sales-tax issue as such. The general outline of these statements appears to be surprisingly accurate, although some errors of detail have been noted. The discussions are based on field work done by members of the staff. In the case of each state concerned, the plan of study has been to discuss the matter fully with several individuals competent to represent all shades of opinion.

From the point of view of research methodology, the most interesting part of the study is Part III. Here an attempt is made to apply the census method, for example to ascertaining business policy toward shifting, to ascertaining the influence of administrative propaganda, to learning of the adjustment to the tax by alteration of business methods, to discovering incidental burdens imposed by the tax, and to understanding the attitude of various economic groups toward the tax. In applying this method, the authors have selected a generous sample in each of three states—New York, rate one per cent; Illinois, rate two per cent; and Michigan, rate three per cent. In the main, the results of the canvass are

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

essentially what the tax student would expect. For instance, it appears clearly that shifting is more successful at a rate of three per cent than at a lower rate; likewise it is apparent that merchants are not interested in having higher rates in order more successfully to shift the tax.

The fourth section of the report deals with legal issues in state sales taxation. This discussion is very much less academic than such discussions usually prove to be. It deals directly with problems relating to the administration of the tax as well as to the larger constitutional issues involved. However, matters of making regulations are more emphasized than problems of constitutional theory, such as the application of the interstate commerce clause.

The appendices include useful discussions of methodology, a discriminating analysis in some detail of fiscal developments in the states concerned since 1929, and samples of the questionnaires used in the statistical investigations. There is also a good index which will facilitate use of the report by administrators and, it is to be hoped, legislators.

JAMES W. MARTIN.

*University of Kentucky.*

*The Quest for Security.* BY I. M. RUBINOW. (New York: Henry Holt and Company. 1934. Pp. 638.)

This is an attempt to put in popular form the case for industrial and automobile accident compensation, health insurance, old age pensions, unemployment insurance, and survivor's insurance. In the author's opinion, the New Deal will fall far short of its promise unless it gives the American people greater security through social insurance. Mr. Rubinow has been a close student of social insurance for many years and is well supplied with both information and argument.

A few of the author's views on unemployment insurance may here be presented and commented upon. Mr. Rubinow is a vigorous proponent of unemployment insurance—European model—as a solution of the unemployment problem. He is skeptical of public works and "make work" as a solution because these proposed remedies are "too expensive." They involve large expenditure for materials and payment of wages on a scale much more generous than the payments contemplated by either insurance or relief.

The system of plant reserves provided by the Wisconsin unemployment compensation act is, we are told, weak and unsatisfactory. Its main purpose, says the author, is prevention of unemployment, and prevention is possible only to a very limited extent. Both employees and government should contribute to the insurance fund, and above all, funds should be pooled so that their full strength will be available to alleviate any unemployment, no matter where it occurs.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Concerning the first conclusion, many will feel that insufficient weight is given to the wealth which idle employees might produce if properly set to work. Particularly if we are in for as much chronic unemployment as many believe, wise government expenditures to give people work may be good economy.

The Wisconsin law, in the reviewer's opinion, was not enacted mainly as a device for preventing unemployment. At least two other purposes were equally present. One was to compensate unemployment and the other was to make unemployment (within reasonable limits) an industrial cost to be paid for by the consumer of goods in the production of which unemployment is involved. The author entirely ignores the last purpose. It seems entirely reasonable to assess a certain amount of the cost of unemployment to the industry in which it occurs. Beyond that, unemployment is a public problem and may be paid for by insurance or relief or in other ways. Thus the Wisconsin law appears to the reviewer to establish a sound principle and not to lead "into a blind alley from which many steps may have to be retraced."

This book deals with many controversial subjects and the general reader will probably disagree with the author at many points. But it is a very able and scholarly treatise by a thoroughly social-minded author upon an extremely important and timely subject. It deserves to be widely read.

HAROLD M. GROVES.

*University of Wisconsin.*

*Conclusions and Recommendations; Report of the Commission on the Social Studies.* A. C. KREY, CHAIRMAN (New York: Charles Scribner's Sons. 1934. Pp. xi, 168.)

*Civic Education in the United States.* BY CHARLES E. MERRIAM. (New York: Charles Scribner's Sons. 1934. Pp. xxii, 196.)

On the pedagogical side, there will be little criticism of the findings of the Commission on the Social Sciences except from sectarians whose toes have been trodden upon. Most teachers in this field share the skepticism of the Commission concerning various new forms of tests now widely advertised and employed; they also share its preference for content over methodology; finally, they will be inclined to agree that sundry schemes of "pedagogical prestidigitation," e.g., the unit method, the correlation method, the radiation method, the fusion method, the concomitant method, the dioptric method, and the penetralia method, are empty formalisms. On the other hand, the ideal status of the teacher as portrayed by the Commission, with its freedom of teaching, membership in an active national professional organization, participation in public

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

service, adequate income, and higher social respect, will, of course, meet with the unanimous approval of all those immediately concerned.

Most teaching is directed to the oncoming generation; it is therefore a form of present production for future use. In static periods, forecasts are not essential to the success of the process; in times of crisis and depression, such forecasts are difficult to make, certain to arouse controversy. In its fatidical rôle, the Commission on the Social Sciences is neither dogmatic nor pessimistic. Fundamentally, it is convinced that the day of acquisitive individualism is passing, to be succeeded by an era of ever wider measures of planning and control. While highly general, this conclusion is nevertheless calculated to annoy many still-surviving conservatives—see the current *Literary Digest* poll. Neither is it specific enough to satisfy many hopeful radicals. In addition, the Commission is against narrow intolerant nationalism, aggressive predatory imperialism, racial and religious prejudices; it is for American democracy and liberty, freedom of thought and inquiry, educational opportunity equal to all. These, of course, are high ideals; also they are so broad as to require much more detailed statement than the brief compass of the Report permits. Each of them is certain to be opposed by large and powerful groups. As a whole, they are consistent, except that thus far the success of planning and control under conditions of democracy and liberty remains to be proved.

For a future other than that conceived by the Commission—if, for example, we are doomed to dictatorship—the education it proposes would be a tragic preparation for the young. Rather, they should devote themselves to athletics and military training, be fed with propaganda, and taught to obey implicitly orders from above, with resulting complete atrophy of their intellects. In spite of doubts and opposition, however, the program of the Commission deserves strong general support. That it can be criticized effectively as to details, the reservations made by one of the members sufficiently show. Four members declined to sign the Report; it is to be regretted that they did not submit dissenting opinions.

Professor Merriam holds much the same view of the impending crisis as the Commission on the Social Sciences; however, he seems rather more inclined to believe in "a brilliant future lying within the grasp of mankind." He also adheres to democracy as "a way of life as well as a form of government." While both books are largely concerned with general goals, the teacher will find a much greater number of helpful detailed suggestions in the *Civic Education*. Professor Merriam has succeeded admirably in bringing his experience, not only in the lecture-room but even more largely in public office, to bear upon his subject. He presents the probable policies of the near future in rather greater detail and

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

flexibility. In reading the *Report of the Commission* one has the feeling that too much attention is concentrated upon the process of education alone; on the other hand, Professor Merriam notes to an almost bewildering degree competing agencies, notably the family, the church, the political party, and various social, occupational, and cultural groups, also such influences as literature, press, screen, symbolism, traditions, ideologies, and flaming personalities. In this part of the work he has used effectively the findings presented in the series of studies devoted to the making of citizens in several of the principal countries of the world.

In their wider implications as to the politics of the immediate future, these two books will be of interest to students of the social sciences generally. Of course they make a direct professional appeal to all teachers in this field. It would seem decidedly worth while to procure from the latter detailed comment regarding the practical application in the classroom of the many suggestions made in the two studies.

ROBERT C. BROOKS.

*Swarthmore College.*

*Planning the Modern State; An Introduction to the Problem of Political and Administrative Reorganization.* BY F. A. BLAND. (Sydney: Angus and Robertson. 1934. Pp. xi, 230.)

This stimulating volume comes from the pen of one of the best-known students of public administration in the commonwealth of Australia, and is, in a way, a sequel to an earlier book, *Shadows and Realities of Government*, by the same author. The book comprises a course of lectures, delivered in Sydney, with the purpose of explaining the more recent trends of opinion upon the problems of government. It is significant to observe that these problems are almost completely of an administrative rather than a political nature.

In one chapter of the book, the author discusses certain problems of law-making in the twentieth century; and then he proceeds to deal with such issues as: Is the New Despotism Inevitable?, The Problem of Official Independence, Public Service Personnel, and The Government as Entrepreneur.

Although the book is written from the point of view of an Australian, and more broadly from an English point of view, the problems which Professor Bland raises and the analysis which he presents have a universal interest and application. In the light of American institutions, it is interesting to note that the author urges more local government, a position which is clearly understood in the light of the historical Australian development. One aspect of his plea for more local government is based upon a demand for a police force independent of the state or national

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

authority. Professor Bland says: "People as a whole, equally with the government, are interested in the preservation of law and order—and they will tend to gain more from an upright police force independently controlled than they will from one which acts only at the discretion and under the control of a minister of the Crown." Professor Bland fears lest the police come to be regarded as a corps of janissaries.

Presenting as it does fresh points of view on some universal problems, with particular emphasis upon Australian experience, this volume should be found on the shelves of every student of public administration.

LEONARD D. WHITE.

*U. S. Civil Service Commission*
*Washington, D. C.*

## BRIEFER NOTICES

### AMERICAN GOVERNMENT—NATIONAL, STATE, AND LOCAL

*The American Year Book for 1933*, edited by Albert Bushnell Hart and William M. Schuyler (American Year Book Corporation, pp. xxv, 1018), is of especial value because of the comprehensive survey which it contains of the national recovery program and of the various changes which have taken place in the federal, state, and local governments since March, 1933. Professor Everett S. Brown, in an article on "The President and his Policies," has summarized the messages, addresses, and other public statements and acts of President Roosevelt during the year 1933. Dr. George S. C. Benson has contributed an analysis of the composition, procedure, and work of the Seventy-third Congress, including not only the measures that were considered, but also the relations between the President and Congress and the various investigations that were carried on. Professor Frederic A. Ogg discusses in greater detail the important laws enacted by Congress, including legislation on banking, currency and securities, emergency relief, agricultural legislation, the National Industrial Recovery Act, and railway coördination. The organization and activities of the new administrative units which have been brought into being by the recovery program of the Roosevelt administration are explained in detailed by Professor Lloyd M. Short. "The Supreme Court and Constitutional Law," by Professor Thomas Reed Powell, contains a brief summary of the important decisions of the country's highest tribunal, and also some interesting observations on the alignment of the various justices. Clinton Rogers Woodruff covers "The Federal Civil Service" and in doing so expresses the fear that the recovery program is threatened by the spoils system. There are also useful summaries of the personnel of Congress, and of the Administration, and a chronology of important political events throughout the year. Like its predecessors, the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

latest number of the *Year Book* includes, in addition to the parts on American political history and national government, the usual sections on international relations affecting the United States, state government, municipal government, territories, public utilities, defense, and armaments. The volume is not merely a compilation of facts; it contains interpretations of the important developments of the year by competent authorities. Every student and teacher of government is indebted to the editors of the *Year Book* for this valuable work of reference and to the generosity of Mr. Adolph S. Ochs which has made its publication possible.—A. C. HANFORD.

*Labor Fact Book, II* (International Publishers, pp. 222), issued by the Labor Research Association, is the second edition of a reference book giving "information about a wide variety of economic, social, and political matters . . . prepared primarily for those who use such material in connection with activity in the working class movement." Expressed more bluntly, it is a campaign text-book for Communist and radical labor orators. Its value to students of the social sciences lies principally in this fact: they can get the Communist statement and interpretation of the developments of the depression period in an hour from this reference book, without having to listen to long soap-box orations or to wade through the voluminous literature and periodicals of the revolutionary labor movement. Plus this, the book has some value as a convenient repository of much important statistical information, although, unfortunately, the source of the information is seldom given. High points in the Communistic interpretation of the events of the depression period are indicated by the chapter and section headings and by key sentences. The depression is the "General Crisis of Capitalism;" the New Deal, the "Capitalist Program for the Crisis." "Strike-breaking is one of the chief aims of the NRA; under the cover of demagogy, Roosevelt and the capitalists are paving the way for Fascism." The American Federation of Labor is a "racketeering organization" which "fights industrial unionism" and has "helped to set up various strike-breaking boards under the NRA." The railroad brotherhoods have sacrificed the interests of the railroad workers on every vital issue confronting them in recent years." The Trade Union Unity League is "the acknowledged leader of the revolutionary trade union movement in the United States," and approval is also given the "unemployed councils" and the independent (dual) unions. Special chapters are devoted to Negroes and the farmers, whose situation is painted in such a light that they would appear to have nothing to lose and everything to gain by revolution. The "Workers Way out of Crisis" is that outlined in a resolution adopted at the last Communist convention: "The struggle of the workers for their pressing immediate demands grows into the social revolution for the overthrow of capitalism," followed by the confiscation

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of "the banks, the factories, the railroads, the mines, and the farms of the big corporations" and the reorganization of "the present anarchistic system of production on Socialist lines." Appropriately, the last chapter deals with the Soviet Union, where this program has been put into operation and has resulted in "astounding progress" while the rest of the world has been suffering from depression. In these conclusions no other group would follow the Communists, but their attacks upon the New Deal and the American Federation of Labor are strikingly similar to those of the extreme conservatives. Can it be that the range of human thought does not lie in a straight line, but follows the manner of seating in European parliaments which brings the extreme right and the extreme left much closer together than they admit or realize? At all events, both extremes are directing their major attacks upon the center and using many of the same arguments.—EDWIN E. WITTE.

To quote the preface of Roland A. Eggers' *Retirement of Public Employees in Virginia* (D. Appleton-Century Co., pp. xvi, 269), the book "is essentially a manual, designed to assist local authorities in the formulation of provisions for the retirement of public employees which are adopted to local necessities and at the same time consonant with sound pension practice. Its basic objective is to assist in the accomplishment of a very practical task, and its contribution to the scholarly and academic aspects of pension theory and administration is therefore incidental." The author wisely devotes none of his 169 pages of main text to descriptions of existing pension systems in Virginia. He confines himself to the almost myriad legal decisions, principles, and facts which must be considered in developing a sound retirement system. His first two chapters, "The Pension as an Act of the Government" and "The Pension and the Public Servant," are concerned primarily with legal decisions. In preparing them, the author used "Professor Frederick Green's brilliant and scholarly analysis of the law of public pensions made for the Illinois pension law commission in 1918." In these two chapters, he brings the standard study of the cases on public pensions up to date. "Salaries and Living Costs in the Municipal Service," the third chapter, presents original statistical studies made by the University of Virginia Institute for Research in the Social Sciences, combined with the best available general data. The charts used are graphic and interesting. Chapter IV, "Pension Characteristics of Municipal Employees," ingeniously combines presentation of data regarding municipal employees in Virginia with good instruction on the elements of actuarial science requisite in developing a sound retirement system. Chapter V deals with the structure of the pension system, under the headings (a) membership, (b) benefits, (c) source of pension funds, and (d) administration of pension funds. Chapter VI, "The Administration of the Pension System," presents first a very brief summary of find-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ings and then a suggested ordinance for municipalities having over 400 employees. Chapter VII deals with the adaptation of the pension system to the small municipality. To cover so diverse a field in so brief a compass, the author has necessarily to be compact. A manual, however, is to be studied and is not intended for light summer reading. No one seriously concerned with public retirement systems can afford not to be familiar with this book; for although some of it is pointed to conditions in Virginia, most of it is of general application, and even the material specifically relating to Virginia is indicative of the type of data needed for other jurisdictions.—LEWIS MERIAM.

The governor of North Carolina is distinctive among state executives as lacking the veto power—a power uniformly enjoyed by other governors. This lack of power is, however, no criterion in evaluating another constitutional prerogative, namely, the pardoning power. In this field, the North Carolina constitution gives wide discretionary power to the governor. It is with the problems arising when this ancient gubernatorial power meets modern criminology that a recently published doctoral dissertation, *The Pardoning Power of the Governor of North Carolina* (Duke University Press, pp. 188), by Roma S. Cheek deals. The two opening chapters handle very well the general nature of the pardoning power and the legal and administrative aspects of pardons in the American states. The remaining chapters deal directly with the problem in North Carolina. The severity of punishment in that state—now less pronounced than formerly—has justified a wide use of the pardoning power; but the evidence arrayed in these chapters indicates that there is too much leniency and some lack of discrimination in the exercise of the power. When we find that fifty-three per cent of all those condemned to die are saved from execution by the governor, it is clear that the chief executive really makes the decision as to when capital punishment shall be inflicted. Too many pardons and commutations in proportion are given to prisoners sentenced to long terms as compared with those sentenced to short terms. The great need in North Carolina is for a parole system. None now exists for adults except through a conditioned pardon, although in connection with the juvenile reformatories the legislature has made provisions for such a system. Among the commendable features of this study are: (1) a clear exposition of the distinctions between pardon, reprieve, commutation, probation, and parole, and (2) a plea for a modern system of parole. Numerous errors in proof-reading and an occasional split infinitive are very minor defects. The volume can be recommended to students of politics and sociology as a critical and analytical study of the subject of executive clemency.—BEN A. ARNESON.

Perhaps the most important single conclusion which emerges from the rapidly accumulating body of evidence on the shameless spawning of un-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

necessary local governments in Ohio, Michigan, and Illinois is that the cession of the western lands by Virginia in 1784 was a great mistake. Certain it is that the dire extremities in which local government finds itself in these areas today is largely a product of the abandonment of a simplicity in structure and area which was its geographical heritage from the Old Dominion. "Detroit the Dynamic", in *The Government of the Detroit Metropolitan Area* (Director of the Inquiry, 936 National Bank Bldg., Detroit, Mich, 121 pp.), by Dr. Lent D. Upson and Mr. J. M. Leonard, is the most recent addition to current exhibits on the Mess of the Modern Metropolis. This is no place to review the findings of the inquiry. In the aggregate, the investigators have discovered only that Detroit is much like every other metropolitan area. But no other regional survey of governmental agencies with which I am familiar cumulates with such deadly effectiveness the evidence against the toleration of the "metropolitan problem." The conclusions and suggestions are likewise not novel. City-county consolidation, city-county separation, metropolitan federalism, metropolitan statehood—all are familiar panaceas in the pill-boxes of metropolitan experts. But nowhere else have the probable effects, administrative and fiscal, of the several solutions to the metropolitan problem been set down so clearly and convincingly. The only false note in the entire study is in the conclusion. The writers suggest, as probably the most feasible plan, the creation of a strong county, in the hope that the already declining subordinate units will hasten their paresis by the voluntary transfer of functions to the geographically and fiscally adequate county. These are the words of a very, very tired reformer!—ROWLAND EGGER.

*The Municipal Year-Book, 1954* (International City Managers' Association, pp. viii, 256), edited by Clarence E. Ridley and Orin F. Nolting, is the initial issue of what is probably the first non-commercial publication of its kind in the United States. It begins (Part I) with six authoritative short articles on the general outlook for municipal government and the broader trends in the field. Following these come twenty even briefer contributions on the developments in 1933 in particular fields of municipal administration. A high standard of excellence is maintained in all. In Part II are numerous statistical tables dealing with forms of city government, boards and commissions, tenure and salaries of officers, assessed valuations, receipts, expenditures, debts, and delinquent taxes as of about 1933. Included also are directories of city officials, and selected lists of recent books, pamphlets, reports, and periodicals for the administrator and the student of administration. The editors completely disarm the critic by their own summary of the limitations of their publication. Their statistical tables and directories cover council-manager cities of all sizes, and non-manager cities of over 30,000, but not the non-manager cities

LICENSED TO UNZ.ORG.
ELECTRONIC REPRODUCTION PROHIBITED

of smaller size. Thus more cities are left out than are included. Because of their positions in the Association, the editors naturally found it easier to get information from council-manager cities than from others. The idea of having a municipal year-book is an excellent one, but it is doubtful whether a repetition of the materials in this book, merely revised from year to year, will appeal generally to the public. The directories and some of the financial tables should undoubtedly be kept up to date, but they need also to be broadened in scope. In certain fields a single year's events will hardly reveal trends of sufficient significance to warrant an annual article. Although certain essential information should appear in each number, each annual issue might be distinguished by an especially full treatment of one subject. Thus one issue might be a police number, another a playgrounds and recreation number, a third a health number, and so on. Planned and executed on the basis of such a long-time program, the whole series could be made indispensable to all students and administrators.—WILLIAM ANDERSON.

In 1932, the School of Public and International Affairs at Princeton University made a survey of the government and finances of New Jersey. *Executive Control Over State Expenditures in New Jersey*, (Princeton University Press, 1934, pp. 36), by Denzel C. Cline, brings down to date this analysis of the state's financial procedure. Four sections deal with the background of administrative decentralization, noting the numerous surveys of the state government that have been made, each recommending extensive reorganization; the steps toward expenditure control adopted by the legislature in 1933; and critique and conclusions. The steps taken include provision for a budget commissioner, who has little control over special funds, and a commissioner of finance to supervise expenditures. Both are under the governor, and each is entirely independent of the other. The department of municipal accounts has had added to its duties the general audit of the accounts of all state departments, commissions, and institutions. This legislation makes possible some improvement in financial procedure, but in the words of the author, it "is merely a halfway reform." Detailed appropriation acts, no longer necessary or desirable, are still used, and the power of the governor over purchases is uncertain in extent, and probably in many cases inadequate. An astonishing number of dedicated or special funds is still maintained, and as compared with other states, the government exhibits an extreme degree of decentralization. Students of political parties cannot fail to be interested in the manner in which the two-party system, by a peculiar balance of urban and rural votes, has operated to prevent any important changes in this antiquated administrative organization.—W. BROOKE GRAVES.

One of the future benefits of the current economic depression may be an

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

escape from obsolete, unwieldy, and expensive governmental institutions and methods. The voice of economy is raised on every hand. Taxpayers' protective associations are of the soil racy in the Southwest. In their *The Government of Texas* (Arnold Foundation, pp. x, 149), fifteen collaborators, mainly teachers in Texas colleges and universities, present a survey of the proposed alterations in the governmental agencies and institutions of Texas. The title of the brochure is misleading in that a reader secures but a scant knowledge of the state's government as a whole. Rather, he discovers a great deal on the worst features of the system, so that the book might more accurately have been entitled "The Misgovernment of Texas, and a Program for Reform." The volume springs from discussions which took place at a conference held at the Southern Methodist University on March 2 and 3, 1934, and its principal value lies in the fact that politicians, seeking grist for the legislative mill and panaceas for their constituents, may adopt it as a handbook of reform. It is indeed timely, for it follows hard upon the reports of the Tax Survey Committee and the Joint Legislative Committees on Organization and Economy. Some of the chapters, indeed, sum up, and further recommend the adoption of, the findings of these committees.—CORTEZ A. M. EWING.

In his *Waiver of Jury Trial in Criminal Cases in Ohio* (Johns Hopkins University Press, pp. 85), Kenneth J. Martin has added another valuable research study to the list of publications of the Institute of Law on judicial administration. This study is divided into two main chapters: (1) "Attitude of Bench and Bar of Ohio toward Waiver," and (2) "The Use of Results of Waiver in Ohio and Maryland." To collect the material on attitudes, the writer sent a comprehensive questionnaire to judges and lawyers of Ohio, and received replies from 109 judges, 82 prosecutors, and 400 attorneys. The results are presented in graphic form and disclose a large majority (84.2 per cent) in favor of waiver. Other things indicated are: a slight increase in the number of convictions in non-jury trials, a saving of time in trials, reduction of the work of the prosecutor, and increased responsibility of the bench, which judges are in general willing to assume. Comparison of the results of waiver in Maryland (where the practice is old) and in Ohio (where it is recent) shows 85.7 per cent non-jury trials in the former and about 15 per cent in Ohio. Other interesting material is presented, and a further study is planned.—CLARENCE N. CALLENDER.

In *The Federal Municipal Debt Adjustment Act; When and How to Use It: A Guide for Municipalities* (Public Administration Service, pp. 12), Carl H. Chatters and John S. Rae present the text and a digest of this remarkable piece of legislation and explain its significance on lines intended to be serviceable especially to officials and creditors of municipalities in

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

financial difficulty. The keynote is that the act is not a cure-all for municipal debt troubles and should be brought into play only as a last resort and as a means of making an agreement binding on a recalcitrant minority after a plan has been worked out by the taxing body.

### FOREIGN AND COMPARATIVE GOVERNMENT

A theory of political development founded upon careful research deserves consideration. Professor Albert Beebe White's *Self-Government at the King's Command* (University of Minnesota Press, pp. 130) presents the origins of self-rule in England as springing, not from the popular will, but from a severe discipline imposed by royal power. The unremunerated duties required of Englishmen in the first quarter of the thirteenth century is the theme of the work. Recognizing that Anglo-Saxon local institutions were the foundation of the scheme, the writer holds that Norman and Angevin royal training was still more potent in its development. Professor White's aim is to measure the total incidence of tasks imposed. With amazing patience he has ransacked the published sources, not only for the minifold forms of these, but even for numerical instances of their recurrence. Juries, inquests, and the minutiae of judicial procedure are in the foreground most of the time. Judicial uses of the people occupy considerably more space than non-judicial uses. No other century could provide so much material for the author's purpose. The massed effect is impressive. With subsequent lessening of these burdens his study is not concerned; but he justly holds that parish government of a later age perpetuated duties imposed and experience gained through royal command. His conclusion is that seventeenth-century Englishmen were capable of self-government because for generations kings had forced a share in government upon them.—WILLIAM A. MORRIS.

What Mr. A. Krishnaswami has to offer in the twelve chapters of *The New Indian Constitution* (Williams & Norgate Ltd., pp. 230) is a series of discussions on the proposed constitution of India, now being framed in London. He deals with such problems as the Indian states and the federation, federal finance, provincial legislatures, reservations and safeguards, and racial and religious minorities. He writes from the British Liberal viewpoint; bases his comments largely on the reports of the three Round Table conferences; and holds the thesis that the new constitution will be a sort of manna from heaven and will inaugurate an era of peace and prosperity—a view not endorsed by the general opinion of the Indian nation. To be sure, he grudgingly admits some of the constitution's glaring shortcomings, but he stresses unduly the "paramountcy rights," "special responsibilities," "imperial interests," "consolidation," and "permanence of the British Empire," and in the end presents an unbalanced picture. It is curious that the British framers of the constitution are more worried

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

about the rights of the minority groups—Indian as well as alien—than about those of the majority. There is little evidence to prove that the author has considered the subject impartially. Among all the Indian leaders whom he quotes to substantiate his arguments are the few lone politicians, universally discredited in India outside the governing class. It does not appear that he has heard of the Indian National Congress, which represents the overwhelming mass of the Indian people. The fact is that the constitution is being drawn up with eyes mainly for the advantage of Britain, and the Congress has already gone on record as being unanimously opposed to it. Some of Mr. Krishnaswami's discussions are good; some are sketchy, superficial, and sophomoric.—SUDHINDRA BOSE.

In *The State of the Soviet Union* (International Publishers, pp. 96), Joseph Stalin reports on the work of the Central Committee to the Seventeenth Congress of the All-Union Communist party. In the document, he analyzes the economic crisis in the capitalist world and discusses the increasing dangers of the political situation and the foreign relations of the Soviet Union. The report also touches on the progress of industry and agriculture and the improvement of economic and cultural conditions in the country, and presents the problems of organization and leadership facing the Communist party. In discussing the foreign policy of the Union, Stalin comes out emphatically for world peace, but the general world nervousness is reflected in the statement that the U.S.S.R. "is prepared to answer blow for blow against the instigators of war . . . and those who try to attack our country will receive a stunning rebuff to teach them not to poke their pig's snout into our Soviet garden again" (p. 28). While, in general, the report glows with pride of achievement, it does not fail to record failure. Thus, speaking on the subject of agriculture, Stalin remarks: "In regard to Soviet farms, it must be said that they still fail to cope with their tasks properly" (p. 48). A significant note is struck when he rejects economic equality by saying that "equality in the sphere of requirements and personal life is a piece of reactionary petty-bourgeoise stupidity worthy of a primitive sect of ascetics," and that "we cannot demand that all people shall live their individual lives in the same way" (pp. 71–72). The report closes with an appeal to all members of the party to work for the advancement of the Soviet Union.—B. W. MAXWELL.

"One-sixth of China is far from one-sixth of the globe. None the less, it is a vast territory. One-sixth of China is occupied by the "stable" (i.e., consolidated) Soviet districts of the Chinese Soviet Republic." With these words, Bela Kun opens the Introduction which he has contributed to *Fundamental Laws of the Chinese Soviet Republic* (International Publishers, pp. 87), following with a lively exposition of the importance and

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

growing achievements of this Soviet state in the heart of China as viewed by a Bolshevik whose name is by no means unknown to Europe. Almost all of the little volume is devoted, however, to English translations of salient documents, chiefly the Republic's constitution, land laws, military regulations, labor code, regulations of economic life, and nationality and marriage laws. A map shows the far-flung and by no means continuous areas regarded as forming parts of the Republic, and a series of diagrams depict the electoral system and the organization of the central, provincial, and town governments. Comparison of what is found here with the considerably more familiar features of government and economics in the U.S.S.R. can hardly fail to be instructive.

For fourteen years, the late George Burton Adams' *Constitutional History of England* has been the standard single-volume work on the subject. Revised by Robert L. Schuyler, of Columbia University, the book (Henry Holt and Co., pp. xv, 600) will henceforth have even greater usefulness. It is perhaps to be regretted that Professor Schuyler has chosen to introduce no changes in the first eighteen chapters, terminating with the Reform Bill of 1867; for much has been added to existing knowledge by such scholars as T. F. Tout since Professor Adams closed his pages. One can understand, however, his reluctance to "attempt the reconstruction of a master's work," and the new edition is abundantly justified by some reworking of two chapters in which Professor Adams bridged the gap from 1867 to 1920, and particularly by three entirely new chapters, dealing, respectively, with the Irish Free State, the post-war period, and the growth of administration. Inclusion of the last-mentioned chapter is especially significant and gratifying, for, as Professor Schuyler truly remarks, the growth of administrative activities is a feature of recent English constitutional history that has "become more conspicuous than it was when Professor Adams wrote."

## INTERNATIONAL LAW AND RELATIONS

After a summer of successive European crises, the journalism of last spring is already stale. Were Hamilton Fish Armstrong's latest little book, *Europe Between Wars?* (Macmillan Co., pp. 115), only journalism, it would be of little value now or for the future. It was apparently published in June. Hard on its heels came the Nazi "purge" of June 30, Barthou's brilliant *démarche* in the projected Eastern Locarno, the ill-fated Austrian "putsch," the murder of Dollfuss, and the death of von Hindenburg—all events which render obsolete many of these pages. But fortunately the able editor of *Foreign Affairs* has foresight as well as hindsight and has here provided not merely journalistic superficialities, but a readable and accurate outline of the clash of forces in the pre-war

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Europe of 1934. For the professional student of European politics and diplomacy there is little here that is new, though it is helpful to have available in the appendices the texts of the German-Polish declaration of January 26, the Balkan Pact of February 9, and the Rome protocols of March 17. The only glaring omission in the presentation is Russia and the Franco-Soviet *rapprochement* inspired by Hitlerism. The preaching against dictatorship in the last chapter is well done, though perhaps gratuitous in such a place. But these are minor defects. The interpretation, in general, is realistic, incisive, and illuminating. Sensationalism is scrupulously avoided. The question in the title remains a question, with an affirmative answer implied.—FREDERICK L. SCHUMAN.

In a reprint of the Stafford Little Lectures delivered at Princeton in April, 1934, and issued under the title of *Democracy and Nationalism in Europe* (Princeton University Press, pp. 88), ex-Secretary Henry L. Stimson strikes a note of hope and calls upon the people of the United States to assume that measure of responsibility which is ours "to give sympathy, encouragement, and help to the world in its vital struggle to protect our common civilization against war;" remembering, of course, that it is no more wise now than in the time of George Washington to entangle ourselves in the local politics of Europe. The lectures start with the reflection that the late war was fought to make the world safe for democracy. A glance at the Continent reveals the unhappy pervasiveness of Hitlers, Stalins, Pilsudskis, Mussolinis—not to mention lesser fry. In order not to be despondent, Mr. Stimson attempts to secure a long perspective. A great many accurate and well-known facts are compressed into small compass. Mr. Stimson writes well and has fashioned a neat survey of international relations in Europe. The real issue, he concludes, is not whether nationalism will destroy democracy, but whether nationalism *and* democracy can solve the great problems facing governments as a result of the industrial revolution, and whether nationalized democracies can expect success in their efforts to prevent war.—HERBERT W. BRIGGS.

The eighth series of *Problems of Peace* (Oxford University Press, pp. xvi, 291) follows closely in form and subject-matter the earlier series which have been noted here. The lecturers at the 1933 Geneva Institute of International Relations included English, Irish, German, Swiss, Belgian, and American experts, who dealt with many topics, both general and specific. Problems of nationalism, public opinion, and foreign policies of particular states in their effect upon international relations were dealt with by such men as Gilbert Murray, C. Delisle Burns, E. J. Phelan, William E. Rappard, and A. H. Feller. Special problems, such as those involved in the World Monetary and Economic Conference, public works and the world crisis, and the gold standard in international relations, were

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

considered by such authorities as W. Arnold-Foster, Henri Rolin, Sean Lester, Sir John Hope Simpson, Manley O. Hudson, Moritz J. Bonn, Frank D. Graham, Clarence K. Streit, and P. W. Martin. For a close-up of current international problems, this volume is of real value; especially is it of interest as the crystallization of the views of men intimately associated with experiments in their solution.—PHILLIPS BRADLEY.

POLITICAL THEORY AND MISCELLANEOUS

*Geography in Relation to the Social Sciences* (Charles Scribner's Sons, pp. xxii, 382), by Dr. Isaiah Bowman, is one of a series of reports to the Commission on Social Studies dealing with social studies in the schools. It is not a systematic treatise on human geography. Nevertheless, its author, who is director of the American Geographical Society, presents a "philosophy of geography" and a theory regarding its utility in relation to social studies. This is controversial ground. Dr. Bowman skillfully steers a middle course between theories of human omnipotence over nature and of geographical determinism. Men must live with their physical environment. Within technological and economic limits, they may alter this environment. But, in the main, human progress has been a record of successful adjustments to, rather than alterations of, physical surroundings. The special province of the geographer is to classify environmental facts and to analyze adjustments which men have made to them. In successive chapters, the author presents the technical conceptions of geographical science, methods of measuring geographic facts, and techniques for analyzing human adjustments thereto. He emphasizes especially the regional approach. Particular men live in particular places, and contend with particular combinations of distance, topography, minerals, water, climate, soil, and vegetation. Students of politics will find much that is significant for them. There is a chapter on "economic and political bearings," but comments on the relations of politics and geography are scattered throughout the work. The need for social planning, and for political action in connection therewith, is tacitly admitted. But the futility of planning without a broad foundation of precise geographic knowledge is implicit on every page. The volume also contains a survey of "Geography in the Schools of Europe" by Rose B. Clark, of Nebraska Wesleyan University. This survey, which concludes with a chapter entitled "What We Can Learn from Europe," should prove useful to all having curricular responsibilities in public schools and universities.—HAROLD H. SPROUT.

The texts of the addresses and discussions at the Sixth International Studies Conference held in London May 29 to June 2, 1933, have been compiled in a second volume on *The State and Economic Life* (International Institute of Intellectual Coöperation and World Peace Foundation, pp. 422). This volume bears the same title as one published in 1933 con-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

taining a report of the Fifth Conference, held in 1932. The papers included fall into two broad categories: International Trade and Finance (Most-Favored Nation Clause, Open Door Policy, Imperial Preference, and International Capital Movements), and State Intervention in Private Economic Enterprise (Philosophical and Practical Aspects of State Intervention, National Planning, and International Implications of State Intervention). Appended are a series of memoranda prepared by eleven national groups on a series of international economic problems. The memoranda of the American group consist of abstracts of Bidwell's and Angell's reports, *Tariff Policy of the United States* and *Financial Foreign Policy of the United States*, respectively, reviewed in this journal, Vol. 27, p. 847, and Vol. 28, p. 212.—WALTER H. C. LAVES.

In his very interesting and scholarly little book, *What Economic Nationalism Means to the South* (Foreign Policy Association and World Peace Foundation, pp. 28), Peter Molyneaux depicts the sad plight of the Southern farmer, which he attributes to our policy of economic nationalism. Mr. Molyneaux points out that during the new era of prosperity the gross farm income for the South per capita of farm population was $242, while that in the other thirty-eight states was $493. High tariffs mean the economic ruin of the cotton states; the remedy, he suggests, lies in more international coöperation and a lowering of tariffs. While the writer agrees on the whole with Mr. Molyneaux's thesis, it is well to point out that there has been considerable sentiment in favor of the tariff during recent years in the South. This, Mr. Molyneaux seems unfortunately to have lost sight of. While the Hawley-Smoot tariff was being debated in Congress in 1930, Senator George of Georgia insisted that the trouble with the farmer was that he had to sell in an unprotected market and buy in a protected one. At the same time, the late Senator William J. Harris of Georgia demanded a high tariff on jute and other products which compete with low-priced cotton, and other Southern congressmen insisted on a tariff on cocoanut oil and peanuts. All of which only goes to show that the South does not present a united front against the tariff.—CULLEN B. GOSNELL.

Mr. Paul D. Hevesy, Hungarian minister to Spain and delegate to the League of Nations presents his solution of the agricultural crisis in *Le Problème Mondial du Blé* (Librairie Felix Alcan, pp. 294). In the judgment of the author, "the basis of the world crisis is the agricultural crisis. The basis of the agricultural crisis is the wheat crisis." As a means of vanquishing the agricultural depression, it is proposed to establish "L'Entente Internationale du Blé." The suggested agreement embodies an international wheat council, composed of one representative from each member state. An International Wheat Office would be the executive arm

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of the council, and national wheat offices would represent the international office in the various member countries. This machinery would be used to maintain a world price fixed by the council, and international trade in wheat would be regulated rigidly by quotas. Increased production would be discouraged by the payment of the world price to grower "conformists" and a lesser price to "non-conformists." The plan involves a voluntary allotment to growers. In that respect, it magnifies to world proportions our own wheat adjustment program. One is inclined to believe the difficulties involved would be multiplied in proportion.—ASHER HOBSON.

Johannes Hasebroek's *Trade and Politics in Ancient Greece* (G. Bell and Sons, pp. 187), now translated from the original 1928 German edition, should be as valuable to political scientists as to economic historians. Building partly on the work of Max Weber, Oertel, and others, the author attacks the fallacy of interpreting classical Greek politics in terms of commercial interests. He pictures Hellenic Greece as predominantly agrarian, with an agrarian, consumer ideology. Trade and industry, still small-scale and largely in the hands of metics, were seen only as a source of taxation and of necessary provisions for the citizen-body. The state was not the instrument of capitalist motives, but of the citizens' ideal of a life without labor through maintenance by the state. Thus Greek democracy stemmed from a peasantry, demanding its share of land and the wealth of the state; Greek imperialism looked not toward markets, but toward tribute and the control of supplies. The study is elaborately documented, and the translation, by L. M. Fraser and D. C. Macgregor, is excellently done.—JOHN D. LEWIS.

Striving to "maintain unblunted the revolutionary edge" of the life, work, and teaching of his hero, R. Palme Dutt, in his *Life and Teachings of V. I. Lenin* (International Publishers, pp. 95), seeks to "present the significance and rôle of Lenin, not primarily as a Russian leader, but as a world leader at a critical turning-point of human history; and not primarily as a unique personality . . . but as the leader and responsible representative of a world movement of direct influence and significance for us today." Fifty pages are devoted to biography, something less than that number to "teachings;" and one will hardly find a more concise but meaty elucidation of the subject, from, of course, a purely Communist view-point. The conclusion arrived at—though it is stated in the opening chapter—is that "Lenin's strength . . . was that he alone, from an early point, on the strong basis of Marxism, from well before the end of the nineteenth century, saw with complete clearness the whole character of the future period, prepared for it, drew the practical, concrete con-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

clusions, and was alone adequate to the demands of history when the time came."

In *Pragmatism and the Crisis of Democracy*, University of Chicago Public Policy Pamphlet No. 12 (University of Chicago Press, pp. 25), Charles W. Morris presents an enthusiastic defense of pragmatism as a fourth alternative to (a) the defeatist tendency to turn from present distress to a rosy past, (b) "the philosophy of blood" (Fascism), and (c) "the philosophy of brawn" (Communism). Pragmatism, "the philosophy of the heart," is the "major philosophic expression" of democracy; and, since Mr. Morris finds pragmatism so thoroughly in tune with the *Zeitgeist*, he still has strong hope of redemption through democracy. Of the pressing problems of democracy, he has practically nothing to say; but he believes that "if it can marshall its forces and clarify its vision, perhaps democracy and the philosophy of the heart can provide a living alternative. . . ."—JOHN D. LEWIS.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

# RECENT PUBLICATIONS OF POLITICAL INTEREST

## BOOKS AND PERIODICALS

CHARLES S. HYNEMAN
*University of Illinois*

## AMERICAN GOVERNMENT AND PUBLIC LAW

### *Books*

*Anderson, Thomas Joel, Jr.* Federal and state control of banking. Pp. 528. N. Y.: Bankers Pub. Co.

*Arnold Foundation.* The government of Texas: A survey. (Pamphlet.) Dallas (Texas).

*Blakey, Gladys C.* A history of taxation in Minnesota. Minneapolis (Minn.): Univ. of Minn. Press.

*Bloomfield, Daniel,* comp. Sales taxes, general and retail. Pp. 241. N. Y.: H. W. Wilson.

*Boris, G.* La revolution Roosevelt. Pp. 222. Paris Nouv. Rev. Française.

*Chambers, Jay L.* and *McGuire, S. H.* The new deal interpreted. (Pamphlet.) New Concord (Ohio.)

*Clark, Felton G.* The control of state-supported teacher-training programs for negroes. Pp. 119. N. Y.: Teachers Coll., Columbia Univ. Press.

*Cleaver, J. M.* Constitutional liberty. Pp. 96. Moline (Ill.): Author.

*Coffman, L. D.* State university; its work and problems. Minneapolis: Univ. of Minn. Press.

*Daugherty, Carroll Roop.* Labor under the N.R.A. Pp. 42. Boston: Houghton.

*Davis, Eleanor.* Hours of work and recovery; summary of fact and opinion. Pp. 52. Princeton (N. J.): Princeton Univ. Press.

*Dowell, Austin A.*, and *Jesness, Oscar B.* The American farmer and the export market. Pp. 269. Minneapolis: Univ. of Minn. Press.

*Drachman, Bernard.* Looking at America. N. Y.: Putnam.

*Dunn, Will.* It's up to you. San Francisco: Author.

Federal Revenue Act of 1934. Pp. 255. N. Y.: Prentice-Hall.

*Frease, Harry.* A political paradox; a review of the United States constitutional law of commerce and currency, and its history. Pp. 272. Phila.: Winston.

*Frederic, Katherine Amelia.* Taxes and tax trends, Pp. 144. Wash.: Nat. League of Women Voters.

*Gallagher, M. F.* Government controls industry. Pp. 241. N. Y.: Oxford.

*Gettys, Luella.* The law of citizenship in the United States. Chicago: Univ. of Chicago Press.

*Graves, W. B.* Uniform state action. Pp. 380. Chapel Hill. (N. C.): Univ. of N. C. Press.

*Greenan, John Thomas,* ed. American civilization today. Pp. 163, N. Y.: McGraw-Hill.

*Haig, Robert Murray* and *Others.* The sales tax in the American states. Pp. 858. N. Y.: Columbia Univ. Press.

*Hendler, Max.* Primary day election law handbook. (Pamphlet.) N. Y.: Author.

*Industrial Relations Counselors.* Historical basis for unemployment insurance. Pp. 325. Minneapolis: Univ. of Minn. Press.

*Kellor, Francis.* Arbitration in the new industrial society. N. Y.: McGraw-Hill.



LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

*Loughran, P. H.* Judicial review of federal executive action. Charlottesville (Va.): Mitchie Co.

*Mayers, Lewis,* ed. A handbook of N.R.A. Pp. 868. N. Y.: Federal Codes, Inc.

*Munn, Orson Desaix.* Trade-marks and unfair competition. Pp. 88. N. Y.: Munn and Co.

*Saint-Jean, R. de.* La vraie révolution de Roosevelt. Pp. 280. Paris: Grasset.

*Shoup, Carl,* and *Others.* The sales tax in the American states. Pp. 858. N. Y.: Columbia Univ. Press.

*Simpson, Lesley Byrd.* Studies in the administration of the Indians in New Spain. Pp. 130. Berkeley (Cal.): Univ. of Cal. Press.

*Sly, John F.,* and *Shipman, George A.* Tax limitation in West Virginia. Morgantown (W. Va.): Univ. of W. Va.

*Thompson, Wm. O.,* and *Van Kleeck, Mary.* N.R.A. from within. N. Y.: Int. Pamphlets.

*University of Chicago Libraries,* comp. Unemployment and relief documents; a bibliography. Pp. 18. Chicago: Public Administration Service.

*Whitney, Leon F.* The case for sterilization. Pp. 309. N. Y.: Stokes.

*Willis, Henry P.,* and *Chapman, John Martin.* The banking situation; post-war problems and developments. Pp. 951. N. Y.: Columbia Univ. Press.

*Withington, Lothrop,* and *Hausserman, Oscar.* The securities exchange act of 1934 analyzed. Pp. 66. Boston: Boston News Bur.

*Yoder, Dale,* and *Davies, George R.* Depression and recovery. Pp. 309. N. Y.: McGraw-Hill.

*Articles*

**Administration.** Public administration in the United States in 1933. *John M. Gaus* and *Leonard D. White.* Surveys of state administrative organization: Iowa and Wyoming. *Kirk H. Porter.* Am. Pol. Sci. Rev. June, 1934.

———. Missouri reorganizes its administrative structure. *L. M. Short.* Nat. Mun. Rev. Aug., 1934.

**Administrative Law.** Legal powers of school boards in Illinois. *S. S. Du Hamel.* Ill. Munic. Rev. May, 1934.

———. Judicial review of negative orders by the interstate commerce commission. Columbia Law Rev. May, 1934.

———. The Johnson amendment to the judicial code. *E. C. Goddard.* Mich. Law Rev. June, 1934.

**Agriculture.** The rules of the game. *Henry A. Wallace.* Can the farmer be saved? *Lyman Bryson.* Survey. July 1, Aug. 1, 1934.

———. Plowing under the farm debt crop. *John Hanna.* Am. Bankers' Assoc. Jour. Aug., 1934.

**Army.** The judge advocate general's department of the army. *E. H. Snodgrass.* Tenn. Law Rev. June, 1934.

**Aviation.** State aëronautical legislation of 1933. *George R. Sullivan.* Jour. Air Law. July, 1934.

**Banking.** History marks the boundary between government and banking. *Allan Herrick.* Am. Bankers' Assoc. Jour. July, 1934.

———. Wanted: a plan for our bank credit. *N.A. Tolles.* No. Am. Rev. July, 1934.

———. The guaranty of bank deposits. *A. A. Smith.* Social Science. Summer, 1934.

**California.** California sees red. *G. P. West.* Current Hist. Sept., 1934.

**Communications.** Notes on the policy of the administration with reference to

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the control of communications. *Bethuel M. Webster, Jr.* Air Law Rev. April, 1934.

**Constitutional Law.** Due process as a substantive restriction upon judicial decisions. Limitations on the power of the states to control the jurisdiction of their courts. *Unsigned.* The scope and nature of concurrent power. *J. A. C. Grant.* Columbia Law Rev. May, June, 1934.

———. Validity of statute exempting insurance benefits from process for debts. *J. C. W.* Mich. Law Rev. June, 1934.

———. The power of Congress to levy taxes for distribution to states. *E. M. Perkins.* N. C. Law Rev. June, 1934.

———. The constitution in the light of today. *Roscoe Pound.* Judicial disregard of the equal protection clause as it affects the non-religious. *Frank Swancara.* U. S. Law Rev. June, 1934.

———. State constitutional law in 1933–34. *Charles G. Haines.* Am. Pol. Sci. Rev. Aug., 1934.

**Cost of Government.** Georgia cuts state government costs. *C. B. Gosnell.* Nat. Mun. Rev. Aug., 1934.

———. What do we want from taxes? *H. S. Buttenheim.* Survey. Aug .1, 1934.

**Debts.** How to eliminate temporary borrowing in anticipation of tax collections. *Paul Studensky.* Ill. Munic. Rev. June, 1934.

———. These coils of debt. *Arthur Pound.* Atlan. Mo. Aug., 1934.

**Education.** Schools in the red. *Beulah Amidon.* Survey. June 1, 1934.

———. The peril of subsidies for education. *J. J. Tigert.* Rev. of Revs. July, 1934.

———. What the depression has done to the schools. *N. B. Henry.* Pub. Management. July, 1934.

**Elections.** Election administration in Michigan. *J. K. Pollock.* Nat. Mun. Rev. June (Supp.), 1934.

**Federal Trade Commission.** Recent trends in interpretation of the federal trade commission act. *V. R.* Mich. Law Rev. June, 1934.

**Foreign Service.** Dollars and diplomats. *Bruce Barton.* Atlan. Mo. Sept., 1934.

**Housing.** The national housing act. First steps of the youngest housing plan. *G. E. Anderson.* Am. Banker's Assoc. Jour. July, Aug., 1934. Am. Bankers' Assoc. Jour. July, 1934.

———. Rehousing America. *O. W. Wilson.* No. Am. Rev. Aug., 1934.

———. Mobilizing our housing forces. *C. S. Ascher.* Nat. Mun. Rev. Aug., 1934.

**Impeachment.** The impeachment of Colonel W. L. McGaughey (1893). *C. A. M. Ewing.* Southwestern Soc. Sci. Quar. June, 1934.

**Judiciary.** The grant of rule-making power to the supreme court of the United States. *E. R. Sunderland.* Mich. Law Rev. June, 1934.

**Labor.** Labor's fight for power. Recognizing the company union. *G. E. Sokolsky.* Atlan. Mo. Aug., Sept., 1934.

**Legislatures and Legislation.** Nebraska considers a one-house legislature. *L. W. Lancaster.* New York legislature again impedes a progressive governor. *Russel McInnes.* Nat. Mun. Rev. July, 1934.

———. Reëlection of United States senators. *R. E. McClendon.* Am. Pol. Sci. Rev. Aug., 1934.

**Liquor Control.** Is the lid off? *H. M. Robinson.* No. Am. Rev. Aug., 1934.

———. Contemporary state statutes for liquor control. *D. E. Heckman.* Am. Pol. Sci. Rev. Aug., 1934.

**Lynching.** Proposals for a federal anti-lynching law. *D. O. Walter.* Am. Pol. Sci. Rev. June, 1934.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

**Money.** La crise et la politique monétaire du Président Roosevelt. *S. Landshut.* L'Egypte Contemp. Mar.-Apr., 1934.

———. The silver cart before the horse. *H. P. Losely.* No. Am. Rev. Aug., 1934.

**N.R.A.** La constitution des États-Unis et le national recovery act. *Llewellyn Pfankuchen.* Rev. Sci. Pol. Apr.–June, 1934.

———. State legislation in support of the N.I.R.A. Columbia Law Rev. June, 1934.

———. The N.R.A. runs into trouble. *E. F. Brown.* Current Hist. July, 1934.

———. Darrow—and price fixing. *William Hard.* Survey. July 1, 1934.

———. Should the codes survive: *W. A. Orton.* Current Hist. Aug., 1934.

———. Whose child is the N.R.A.? *J. T. Flynn.* Harper's. Sept., 1934.

**New Deal.** The great experiment in America. *Wahhab Pasha.* L'Egypt Contemp. Mar.-Apr., 1934.

———. Deux théoriciens de la crise américaine: Rexford Tugwell et A. Berle. *A. Chalufour* et *S. Desternes.* Rev. Sci. Pol. Apr.–June, 1934.

———. The economics of the recovery program. *W. Y. Elliott.* Am. Pol. Sci. Rev. June, 1934.

———. Political and constitutional aspects of the new deal. *Isidor Loeb.* Southwestern Soc. Sci. Quar. June, 1934.

———. Les finances des États-Unis sous le régime du "New Deal." *L. Oberascher.* Rev. Écon. Int. July, 1934.

———. Let's have a really new deal. *Fremont Rider.* Government by trial balloon. *J. M. Nolte.* No. Am. Rev. July, 1934.

———. The president and politics. *D. W. Brogan.* Fort. Rev. July, 1934.

———. "Regimentation": a new bogey. *H. S. Commager.* Notes on the new deal. *H. L. Mencken.* Are we on our way? *E. F. Brown.* America: a month's record. *Charles A. Beard.* Current Hist. July, Aug., Sept., 1934.

———. The quiet recovery program. *E. H. Collins.* Am. Bankers' Assoc. Jour. Aug., 1934.

**Parks.** Our wealth of national parks. *D. D. Bromley.* Current Hist. July, 1934.

**Practical Politics.** The opposition looks for leaders. *Oliver McKee, Jr.* No. Am. Rev. July, 1934.

———. Democratic machine builders. *Raymond Clopper.* Rev. of Revs. Aug., 1934.

———. The unhappy G. O. P. *E. F. Brown.* Current Hist. Sept., 1934.

**Prosecuting Attorney.** Powers and duties of the prosecuting attorney: quasi-criminal and civil. *E. H. De Long* and *N. F. Baker.* Jour. Crim. Law & Crim. May-June, 1934.

**Public Utilities.** Utility rate regulation problems. *I. Rooks* and *H. R. Booth.* Ill. Munic. Rev. May, 1934.

———. Control of electric rates in North Carolina. *F. W. Hanft.* N. C. Law Rev. June, 1934.

**Race Prejudice.** A southern view of northern reformers. *Arthur Stryon.* No. Am. Rev. Aug., 1934.

**Regulation of Business.** Le rôle de l'état dans la vie économique des États-Unis. *R. G. Tugwell.* L'Esprit Int. Apr., 1934.

———. Government in business. *A. E. Morgan.* Atlan. Mo. July, 1934.

**Relief.** Relief and social insurance. *Grace Abbott* and *Others.* Social Service Rev. June, 1934.

———. Our illusion regarding government. *Mary van Kleeck.* F.E.R.A. *C. M. Bookman.* Survey. June 15, 1934.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

**Securities Control.** The federal securities act of 1933. *Symposium.* Cong. Digest. May, 1934.

———. The securities exchange act of 1934. *J. E. Tracy* and *A. B. MacChesney.* Amendments to the securities act of 1933. *L. K. James.* Mich. Law Review. June, 1934.

———. The marines land in Wall Street. *J. T. Flynn.* Harper's. July, 1934.

**Social Legislation.** Forerunners of the N.R.A. in Oregon legislation. *R. L. Neuberger.* Commonwealth Rev. May, 1934.

**Suits v. States.** Immunity of a state from suit in the supreme court by a foreign government without the state's consent. *C. P. Anderson.* Am. Jour. Int. Law. July, 1934.

**T. V. A.** The Tennessee Valley idea. *E. F. Brown.* Current Hist. July, 1934.

**Taxation.** The sales tax. *Carl Shoup* and *Louis Haimoff.* Columbia Law Rev. May, 1934.

———. Taxes and tax dodgers. *D. W. Hoan.* Fundamentals of a model tax system. *R. G. Blakey.* Ill. Munic. Rev. May, Aug., 1934.

———. The availability of a sales tax in Tennessee. *M. P. O'Connor.* Tenn. Law Rev. June, 1934.

———. The changing philosophy of taxation. *E. A. Eisenberg.* Marquette Law Rev. June, 1934.

———. Recent changes in the bank and corporation franchise tax act. *R. J. Traynor* and *F. M. Keesling.* Calif. Law Rev. July, 1934.

———. Property tax delinquencies. *T. L. Howard.* Univ. of Chattanooga Bull. July, 1934.

———. The states' search for money. Overhauling state revenue systems. *Mable L. Walker.* Nat. Mun. Rev. July, Aug., 1934.

**Treaty Power.** Inhibitions upon the treaty-making power of the United States. *P. B. Potter.* Am. Jour. Int. Law. July, 1934.

———. The rôle of the senate in treaty-making: a survey of four decades. *Denna F. Fleming.* Am. Pol. Sci. Rev. Aug., 1934.

**Unemployment.** The permanently unemployed. *Henry Carter.* No. Am. Rev. Aug., 1934.

## FOREIGN AND COMPARATIVE GOVERNMENT

### *Books*

*Achorn, Erik.* European civilization and politics since 1815. Pp. 902. N.Y.: Harcourt.

*Addison, C.* Four and a half years. Pp. 297. London: Hutchinson.

*Andréadès, S.* Le contentieux administratif des états modernes. Pp. 587. Paris: Recueil Sirey.

*Anon.* Les textes essentiels du droit administratif français. Pp. 191. Paris: Domat-Montchrestien.

*Augarde, J.*, and *Sicard, E.* Yougoslavie. Paris: Edit. des Portiques.

*Barrail, H.* L'autonomie régionale en Espagne. Paris: Libr. Gén. de Droit et Juris.

*Barthélemy, J.* Essai sur le travail parlementaire et le système des commissions. Pp. 375. Paris: Delagrave.

*Barthélemy, A.* Les avocats devant les tribunaux de commerce. Pp. 52. Paris: Recueil Sirey.

*Battaille, J.* Les offices de compensation; leur rôle dans la restauration du commerce extérieur. Pp. 149. Paris: Recueil Sirey.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

*Bavaj, Amor.* Il principio rappresentivo mello stato sovietico. Pp. 235. Rome: Anonima Romana Editoriale.

*Bernhard, G.* Der Selbstmord einer Republik. Prague: Orbis.

*Beyans, Baron.* Quatre ans à Rome. Pp. 308. Paris: Plon.

*Boissier, L.*, and *Others.* Annuaire interparlementaire, 1934. La vie politique et constitutionnelle des peuples. Pp. 244. Paris: Recueil Sirey.

*Bonnard, R.* Le contrôle juridictionnel de l'administration. Pp. 266. Paris: Delagrave.

*Brethe de la Gressaye, J.* Le syndicalisme, l'organization professionelle et l'état. Pp. 362. Paris: Recueil Sirey.

*Broye, E.* La censure politique et militare en Suisse pendant la guerre de 1914–18. Pp. 200. Paris: V. Antinger.

*Capitant, R.* La réforme du parlementarisme. Pp. 33. Paris: Recueil Sirey.

*Charques, R. D.*, and *Ewen, A. H.* Profits and politics in the post-war world. Pp. 288. London: Gollancz.

*Christie, O. F.* The transition to democracy, 1867–1914. Pp. 368. London: Routledge.

*Cohn, E.* Die Südafrikanische Union. Pp. 148. Berlin: Bossack.

*Conzinet, P.* La dissolution des assemblées politiques et la démocratie parlementaire. Paris: M. Giard.

*Dittmar, W. R.* The government of the free state of Bavaria. Pp. 161. N.Y.: G. L. van Roosbroeck.

*Dommisch, H.*, and *Blankenburg, P.* Ein Jahr national-socialismus in Regierung und Gesetzgebung. Pp. 108. Langensalza: Beetz.

*Dubois-Richard, P.* L'organisation technique de l'état: études pragmatiques de droit public interne et international. Pp. 331. Paris: Recueil Sirey.

*Espinas, G.* Recueil de documents relatifs à l'histoire du droit municipal en France des origines à la revolution. I. Artois. Pp. 605. Paris: Recueil Sirey.

*Fox, R.* The colonial policy of British imperialism. Pp. 122. London: Lawrence.

Fundamental laws of the Chinese soviet republic. N.Y.: Int. Pubs.

*Giaccardi, A.* Dieci anni de fascismo nelle colonie italiane. Pp. 129. Milan: Mondadori.

*Gibbons, John.* Old Italy and new Mussolini land. Pp. 180. N.Y.: Dutton.

*Goering, Hermann.* Germany reborn. Pp. 160. London: Mathews.

*Gordon, E.* Les nouvelles constitutions européennes et la rôle du chef de l'état. Pp. 436. Paris: Recueil Sirey.

*Hanč, Josef.* Středni Europa. Pp. 193. Prague: Svaz Narodníka Osvobození.

*Harris, Eric.* The new deal in Canada. Toronto (Canada): The Ryerson Press.

*Hedges, James B.* The federal railway land subsidy policy of Canada. Cambridge (Mass.): Harvard Univ. Press.

*Heiden, C.* Geburt des dritten Reiches. Zurich: Europa.

*Horrabin, J. F.* An atlas of current affairs. Pp. 168. London: Gollancz.

*International Institute of Intellectual Coöperation.* The state and economic life. Pp. 422. Paris: Int. Inst. Intellectual Coöp.

*Israel, A.* La dissolution. Pourquoi? Comment? Paris: Hachette.

*Kautter, E.* Deutschland in der Weltkrise des Liberalismus. Pp. 307. Stuttgart: Kohlhammer.

*Klotz, Helmut*, ed. The Berlin diaries. N.Y.: Wm. Morrow and Co.

*Koellreutter, O.* Grundriss der allgemeinen Staatslehre. Pp. 284. Tübingen: Mohr.

*Kohler, H. H.* Die Grenzen des parlamentarischen Systems. Pp. 37. Ochsenfurt.

*Kom, J.* La revolución española. Pp. 334. Barcelona: Edeya.

*Kraus, Hertha.* Work relief in Germany. Pp. 93. N.Y.: Russell Sage Found.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

*Kulp, A.* Bindungen und Verpflichtungen des Abgeordneten gegenüber Volk, Partei und Fraktion nach deutschem Staatsrecht. Pp. 63. Frankfurt: Kalbfleisch.

*Lamb, Edward.* The planned economy in Soviet Russia. Pp. 193. Phila.: Dorrance.

*Lilio, Cialdea.* La politica estera della Romania ne quaranternio prebellico. Pp. 296. Bologna: Cappelli.

*Loewenstein, Prince Hubertus.* The tragedy of a nation. Pp. 373. London: Faber.

*Marcel, Ivan.* Evolutia partidelor noastre politice in cifre si grafice, 1919–1932. Pp. 34. Sibiu: Krafft.

*Martin, G.* Le scandale des assurances sociales. Pp. 120. Paris: Grasset.

*Mathews, B. J.* World tides in the far east. Pp. 190. N.Y.: Friendship Press.

*Maxwell, H.* Ulster was right. Pp. 320. London: Hutchinson.

*Mélot, Henri.* La guerre allemande. Paris: Nouv. Edit. Latines.

*Miglioli, G.* Collectivisation dans les campagnes soviétiques. Pp. 288. Paris: Edit. Rieder.

*Mirkovitch, B.* La Yougoslavie politique et économique. Pp. 230. Paris: Bossuet.

*Moye, M.* Précis de législation financière. 10th ed. Pp. 386. Paris: Recueil Sirey.

*Murphy, James.* Adolf Hitler: the drama of his career. Pp. 174. London: Chapman and Hall.

*Nicolai, H.* Die Grundlagen der kommenden Verfassung. Pp. 87. Berlin: Hobbing.

*Niedermayer, O. von,* and *Semjonow, J.* Die Sowjetunion. Pp. 151. Berlin: Vowinckel.

*Olivier, B.* Jeunesse fasciste. Pp. 255. Paris: Nouv. Rev. Française.

*Owen, David E.* British opium policy in China and India. Pp. 408. New Haven: Yale Univ. Press.

*Palyi, Melchior.* Monetary chaos and gold. Pp. 29. Chicago: Univ. of Chicago Press.

*Panunzio, S.* Riforma constituzionale. Pp. 125. Florence: Nuova Italia.

*Paul-Dubois, L. F. A.* The Irish struggle and its results. Pp. 160. N.Y.: Longmans.

*Perreau-Pradier.* L'equilibre budgetaire. Pp. 203. Paris: Domat-Montchrestien.

*Perroux, F.* Les traitements des fonctionnaires en France. Pp. 170. Paris: Recueil Sirey.

*Peters, H. E.* The foreign debt of the Argentine republic. Pp. 196. Baltimore: Johns Hopkins Press.

*Piccioli, A.* La nuova Italia d'oltra mare. 2 vol. Milan: Mondadori.

*Ratlaff, C. J.* The Scandinavian unemployment relief program. Philadelphia: Univ. of Penn. Press.

*Réale, E.* L'Italie: documents de politique contemporaine. Pp. 156. Paris: Delagrave.

*Rosenstock-Franck, L.* L'économie corporative fasciste en doctrine et en fait. Pp. 432. Paris: Gamber.

*Rossel, V.* Le peuple roi. Pp. 157. Paris: Rivière.

*Sarda, F.* La conversion des emprunts de guerre anglais en 1932. Paris: Domat-Montchrestien.

*Schornstein, H. J.* Die Lehre von der Organpersönlichkeit im modernen Staatsrecht. Pp. 23. Bonn: Röhrscheid.

*Seboltendorf, R. von.* Bevor Hitler kam. Pp. 267. Munich: Denkula.

*Shaw, Roger.* Handbook of revolutions. Pp. 175. N.Y.: Review of Reviews.

*Shotwell, James T.* The heritage of freedom; the United States and Canada in the community of nations. Pp. 145. N.Y.: Scribner.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

*Shuster, George U.* Strong man rules; an interpretation of Germany today. Pp. 300. N.Y.: Appleton-Century.

*Sonderegger, R.* Die Schweiz im Umsturz. Pp. 132. Zurich: Reso-Verl.

*Soquet, M.* La réforme de la compatabilité publique. Pp. 159. Paris: Dunod.

*Staline, L.* La revolution d'octobre. Pp. 176. Paris: Edit. Sociales Int.

*Stefani, A. de.* Eventi economici. Pp. 320. Bologna: Zanichelli.

*Strong, Anna Louise.* Dictatorship and democracy in the Soviet Union. N.Y.: Int. Pamphlets.

*Symposium.* From the first to the second five-year plan. Pp. 490. London: Lawrence.

*Weysset, E.* De la nécessité des partis organisés en régime parlementaire. Pp. 147. Paris: Recueil Sirey.

*Articles*

**Administration.** Incentive. *W. D. Sharp* and *Others.* Registered papers. *H. N. Bunbury.* Registries in large government departments. *A. C. Pedley.* Confusion in the public social services. *R. C. Davison.* The relations between the statutory and voluntary social services. *Elizabeth Macadam.* The administrative problem of unemployment relief in Germany. *L. Richter.* Pub. Admin. July, 1934.

**Administrative Law.** Concepto de derecho administrativo. *S. A. Gendin.* Rev. Gen. Legis. y Juris. Apr., 1934.

**Australia.** Australian states and the commonwealth. *F. A. W. Gisborne.* Empire Rev. June, 1934.

———. Unemployment relief in Australia. *F. A. Bland.* Int. Labour Rev. July, 1934.

**Austria.** Hapsburgs again? *John Gunther.* For. Affairs. July, 1934.

———. Should the Hapsburgs be restored? *B. Menezer.* Contemp. Rev. July, 1934.

———. Austria, Hungary, and the Hapsburgs. *Charles Cunningham.* Eng. Rev. July, 1934.

———. Austria's corporative constitution. *A. J. Zurcher.* Judicial review of legislation under the Austrian constitution of 1920. *J. A. C. Grant.* Am. Pol. Sci. Rev. Aug., 1934.

———. Starhemberg's power in Austria. *E. Lengyel.* Dollfuss: victim of Nazi crime. *S. B. Fay.* Current Hist. Aug., Sept., 1934.

**British Empire.** Canada and the empire since 1867. *W. H. Troop.* Dalhousie Rev. July, 1934.

———. Britain debates ways of recovery. *J. Rawdon.* Current Hist. Sept., 1934.

**Canada.** Lord Monck and the Canadian nation. *G. P. Stacey.* Dalhousie Rev. July, 1934.

———. An N.R.A. for Canada? *J. A. Stevenson.* Non-British elements in Canada. *George Godwin.* Fort. Rev. July, Aug., 1934.

———. Socialism in Canada. *Sir Stafford Cripps.* Pol. Quar. July–Sept., 1934.

———. Canada's recovery methods. Political trends in Canada. Canadian business rule under fire. *J. B. Brebner.* Current Hist. July, Aug., Sept., 1934.

**Chile.** Unrest in Chile. *H. G. Doyle.* Current Hist. Aug., 1934.

**Cuba.** Cuba's new sovereignty. *C. W. Hackett.* Current Hist. July, 1934.

**Egypt.** Le budget de l'état égyptienne pour 1933–34. *U. Ricci.* L'Egypt Contemp. Mar.–Apr., 1934.

**France.** La crise politique française. *Gaston Jèze.* Rev. Droit Pub. et Sci. Pol. Apr.–June, 1934.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

———. Les tentatives d'introduction du referendum en France sous la troisième république. *H. Mayer.* Rev. Sci. Pol. Apr.–June, 1934.

———. The French public service and the economic crisis. *W. R. Sharp.* Am. Pol. Sci. Rev. June, 1934.

———. La doctrine et la politique de M. Germain-Martin. *J. F. Compeyrot.* Pour la concorde nationale. *H. Barthélemy.* La réforme électorale. *G. Lachapelle.* La restauration des chemins de fer et la coordination des transports. *M. Peschaud.* Le régime douanier de la France et ses colonies. *G. Candace.* Rev. Pol. et Parl. June, July, 1934.

———. Can the French republic survive? *Sisley Huddleston.* Contemp. Rev. July, 1934.

———. France after February sixth. *Symposium.* For. Affairs. July, 1934.

———. Political ferment in France. *J. S. de Wilde.* For. Policy Rep. July 18, 1934.

———. The internal crisis in France. *Paul Vaucher.* Pol. Quar. July–Sept., 1934.

———. The French political maze. *Philip Carr.* Fort. Rev. Aug., 1934.

**Germany.** Le national-socialisme et l'opinion allemande. *M. Lair.* Rev. Sci. Pol. Apr.–June, 1934.

———. Political testaments of the Hohenzollerns. *A. S. Rappoport.* Nat. Rev. June, 1934.

———. German bureaucracy in transition. *F. M. Marx.* Am. Pol. Sci. Rev. June, 1934.

———. Political structure of the third reich. *M. S. Wertheimer.* For. Policy Rep. June 20, 1934.

———. The religious situation in Germany. *Alfred E. Garvie.* Contemp. Rev. July, 1934.

———. The Catholic Church in Nazi Germany. III. *J. Stanley Lee.* Dublin Rev. July, 1934.

———. The Nazis meet some obstacles. *George Gerhard.* No. Am. Rev. July, 1934.

———. The riddle of Germany. *A. T. Wilson* and *Elizabeth Wiskemann.* Nine. Cent. Aug., 1934.

———. Is Germany facing bankruptcy? *R. L. Baker.* Nazi against Nazi. *S. B. Fay.* The real crisis in Germany. *R. C. Long.* Current Hist. July, Aug., 1934.

———. Will the Hohenzollerns return? *Dornatis.* Atlan. Mo. Sept., 1934.

**Great Britain.** House of lords reform. *A. R. Wise.* Empire Rev. June, 1934.

———. The planning of agriculture. *Wolmer.* Under which king? *Charles Challen.* Imagination or window dressing. *J. C. Pringle.* The road traffic bill. *E. Cadogan.* Nat. Rev. June, July, 1934.

———. Politics in transition. *W. H. Carter.* Fort. Rev. July, 1934.

———. National or conservative. *Quintin Hogg.* Industrial combination; England's new attitude. *Hermann Levy.* The coöperative movement. *E. C. Fairchild.* Nine. Cent. July, Aug., 1934.

———. The incitement to disaffection bill. *J. E. Maccoll* and *W. T. Wells.* The new scheme of unemployment relief. *R. C. Davison.* Pol. Quar. July–Sept., 1934.

———. Britain turns the corner. *Lord Elton.* British West Indian aspirations. *W. A. Roberts.* Britain's government falters. *H. B. Lees-Smith.* Current Hist. Aug., Sept., 1934.

———. The rise of Oswald Mosley. *L. C. Rosten.* Harper's. Sept., 1934.

**India.** Is there no other plan? *M. F. O'Dwyer.* Nat. Rev. June, 1934.

———. Strategy and Swaraj. *Lieut.-Col. C. L. Dunn.* Eng. Rev. July, 1934.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

**Ireland.** Problèmes constitutionnels irlandais. *M. Batelli.* Rev. Droit Pub. et Sci. Pol. Apr.–June, 1934.

**Italy.** Agriculture under fascism. *Odon Por.* Eng. Rev. July, 1934.

**Japan.** Whither Japan. *J. O. P. Bland.* Eng. Rev. June, 1934.

**Latin America.** Recent advances in labour legislation in Latin America (1928–1934). *M. Poblette-Troncoso.* Int. Labour Rev. July, 1934.

**Palestine.** Storm over Palestine. *E. M. E. Blyth.* Nat. Rev. July, 1934.

———. Immigration and labor in Palestine. *Andres McFaydean.* For. Affairs. July, 1934.

**Parliamentary Government.** La réglementation de la responsabilité politique ministérielle. *O. Dupond.* Rev. Droit Pub. et Sci. Pol. Apr.–June, 1934.

———. Parliamentary reform—the urgent need. The *Earl of Cottenham.* Eng. Rev. July, 1934.

**Parties.** Les partis politiques dans les constitutions d'après guerre. *R. Pelloux.* Rev. Droit Pub. et Sci. Pol. Apr.–June, 1934.

**Poland.** Constitutional revision in Poland. *A. J. Zurcher.* Am. Pol. Sci. Rev. June, 1934.

**Portugal.** La crise financière portugaise d'après guerre. *F. E. da Silva.* Rev. Pol. et Parl. June, 1934.

**Russia.** Russian economic realities. *Lancelot Lawton.* Fort. Rev. Aug., 1934.

———. Soviet economic gains. Reforming the soviet state. *E. S. Furniss.* Current Hist. Aug., Sept., 1934.

**Spain.** The agony of Spain. *Philip Robinson.* Nine. Cent. July, 1934.

———. Gil Robles: scourge of liberal Spain. *Harold Coy.* Current Hist. Sept., 1934.

**Uruguay.** Uruguay's quest for social welfare. *J. W. White.* Current Hist. Aug., 1934.

**Yugoslavia.** The social character of Yugoslav politics. *J. S. Rouček.* Social Science. Summer, 1934.

## INTERNATIONAL RELATIONS

### *Books*

*Acworth, B.* The navy and the next war. Pp. 319. London: Eyre & Spottiswood.

*Anon.* Affaire franco-hellénique des Phares. Pp. 124. Paris: Berger-Levrault.

*Anon.* Institutions pour l'étude scientifique des relations internationales. Pp. 107. Paris: A. Pedone.

*Anon.* La radiodiffusion et la paix. Pp. 200. Paris: A. Pedone.

*Anon.* Petit manuel de la société des nations. Pp. 208. Paris: A. Pedone.

*Armstrong, Hamilton Fish.* Europe between wars? Pp. 115. N.Y.: Macmillan.

*Asia Committee.* Manchuria: the problem in the Far East. Pp. 69. Wash.: Catholic Assoc. for International Peace.

*Ball, Margaret.* Die deutschösterreichische Anschlussbewegung vom völkerrechtlichen Standpunkt. Pp. 93. Emsdelten: Lechte.

*Barnes, Joseph,* ed. Empire in the east. Pp. 322. N.Y.: Doubleday.

*Benoist, Charles de.* Souvenirs. Pp. 532. Paris: Plon.

*Bleutge, E.* Die organisatorische Funktion des Tarifvertrages. Pp. 111. Wurzburg: Triltsch.

*Brailsford, H. N.* Property or peace. Pp. 346. N.Y.: Covici, Friede.

*Bruck, Otto.* Les sanctions en droit international public. Pp. 284. Paris: A. Pedone.

*Catellani, Enrico.* Da Washington a Wilson. Pp. 158. Turin: Bocca.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

*Cole, G. D. H.* Studies in world economics. Pp. 285. London: Macmillan.

*Decenciere-Ferrandire, A.* Essai critique sur la justice internationale. Paris: A. Pedone.

*Deterding, Sir Henri,* and *Naylor, Stanley.* An international oilman. Pp. 126. N.Y.: Harper.

*Eddy, George Sherwood.* The challenge of the East. Pp. 285. N.Y.: Grosset.

*Eddy, George Sherwood.* The challenge of Europe. Pp. 345. N.Y.: Grosset.

*Fuller, J. F. C.* Empire unity and defence. Pp. 300. London: Arrowsmith.

*Fenwick, Charles G.* International law. 2d ed. Pp. 670. N.Y.: Appleton-Century.

*Foreman, Clark.* The new internationalism. Pp. 154. N.Y.: Norton.

*Frangulis, M. A. F.,* ed. Dictionnaire diplomatique. 2 vols. Paris: Acad. Diplomatique Int.

*Giretti, Luciano.* Riparazioni e Crisi. Pp. 172. Turin: Sismondi.

*Goellner, A.* Les ponts français sur le Rhin. Pp. 192. Paris: Rousseau.

*Goyau, G.* L'église et la guerre. Pp. 252. Paris: Flammarion.

*Grau, Andres.* Nationale mindretalsspørgsmaal i mellemeuropa. Pp. 187. Copenhagen: Reitzel.

*Groves, P. R. C.* Behind the smoke screen. Pp. 352. London: Faber.

*Hecker, H.* Staatensukzession und Umgemeindung. Pp. 99. Frankfurt: Kalbfleisch.

*Henkin, Ascher.* Must we have war? Pp. 244. Boston: Bruce Humphries.

*Henri, Ernst.* Hitler over Europe. Pp. 297. N.Y.: Simon and Schuster.

*Hosono, G.* Histoire du désarmement. Pp. 263. Paris: A. Pedone.

*Hoxter, W.* Bevölkerungsaustausch als Institut des Völkerrechts. Pp. 57. Leipzig: Noske.

*Hudson, Manley O.,* and *Others.* The post-war development of international law and some contributions by the United States of America. Pp. 56. N.Y.: Carnegie Endow. for International Peace.

*Hunt, Frazier.* This bewildered world. N.Y.: Stokes.

*Ion, Nistor I.* Problema Ucraíneană ĭu lumina istoriei. Pp. 140. Cernaŭti: Glasul: Bucovinei.

*Jones, Joseph M. Jr.* Tariff retaliation; repercussions of the Hawley-Smoot bill. Pp. 362. Phila.: Univ. of Pa. Press.

*Joosten, H. H.* Vom Freihandel zum Schutzoll. Pp. 154. Nordhausen: Müller.

*Kleist, B. P.* Die völkerrechtliche Anerkennung Sowjetrusslands. Pp. 127. Tilsit: Mauderode.

*Kopping, M.* Der Völkerbund und das internationale Zollwesen. Pp. 106. Berlin: Sievwert.

*La Rochebrochard, G. de.* L'union douanière austro-allemande. Paris: A. Pedone.

*Latané, J. H.* A history of American foreign policy. Rev. ed. by D. W. Wainhouse. Pp. 878. Garden City (N.Y.): Doubleday.

*MacMunn, G.* Britain, the world, and the war god. Pp. 166. London: Low.

*Mandelstam, A. N.* L'interprétation du pacte Briand-Kellogg par les gouvernements et les parlements des états signataires. Paris: A. Pedone.

*Martin, St. René.* La génération du sacrifice. Pp. 224. Paris: B. E. P.

*Mathews, T. B.* Traffic in death; a few facts concerning the international munitions industry. Pp. 19. N.Y.: League for Indus. Democ.

*Mirkine-Guetzévitch, B.* Droit constitutionnel international. Pp. 298. Paris: Recueil Sirey.

*Nicolson, Harold George.* Curzon: the last phase, 1919–1925; a study in post-war diplomacy. Pp. 432. Boston: Houghton.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

*Papanastassiou, A. P.* Vers l'union balkanique. Pp. 284. Paris: Dotation Carnegie.

*Pückler, K. G. von.* Aus meinem Diplomatenleben. Pp. 232. Schweidnitz: Heege.

*Rautenkranz, H.* Die völkerrechtliche Ordnung des Verkehrz in der Ostsee. Pp. 62. Leipzig: Noske.

*Rawles, William P.* The nationality of commercial control of world minerals. Pp. 42. N.Y.: Amer. Inst. of Mining and Metallurgical Engineers.

*Redslob, R.* Entre la France et l'Allemagne. Pp. 252. Paris: Plon.

*Rieper, G.* Die militärischen Rechten Polens in der Freien Stadt Danzig und die Frage der Neutralität Danzigs. Pp. 83. Wurzburg: Roll.

*Rogge, Heinrich.* National Friedenspolitik. Pp. 708. Berlin: Junker and Dünnhaupt.

*Rousseau, C.* La sortie de la société des nations. Paris: A. Pedone.

*Scelle, George.* Droit constitutionel international. Pp. 558. Paris: Recueil Sirey.

*Schwendemann, Karl.* Gleiches Recht und gleiche Sicherheit. Pp. 156. Berlin: Waidmann.

*Schmid-Burgk, E. M.* Minderheitenrecht als politisches Recht. Pp. 49. Tubingen: Mohr.

*Simpson, Kemper.* Introduction to world economics. Pp. 311. N.Y.: Harper.

*Tenekides, C. G.* Le principe "rebus sic stantibus," ses limites rationnelles et sa récente évolution. Paris: A. Pedone.

*Tomitch, P. M.* Contingentements et commerce international. Pp. 200. Paris: Recueil Sirey.

*Tomitch, D.* Les intrigues révisionnistes contre les traités de paix. Pp. 224. Paris: Bossuet.

*Verykios, P. A.* La prescription en droit international public. Paris: A. Pedone.

*Wecke, Nicolas de.* La condition juridique du conseil du port et des voies d'eau de Dantzig. Pp. 277. Paris: Boccard.

*Williams, Sir John Fischer.* Some aspects of the covenant of the league of nations. N.Y.: Oxford Univ. Press.

*Zimmern, A.* Quo vadimus? Pp. 43. N.Y.: Oxford.

### *Articles*

**Adjudication.** La cour permanente de justice internationale et le droit international privé. *A. de Hammarskjöld.* Rev. Critique de Droit Int. Apr.–June, 1934.

**Air.** Du statut de l'aviation sanitaire au point de vue juridique international. *C. L. Julliot.* Rev. Gén. Droit Aérien. Jan.–Mar., 1934.

**American Foreign Relations.** Russian-American relations, 1917–1933: an interpretation. *Malbone W. Graham.* Am. Pol. Sci. Rev. June, 1934.

———. Dragging America into war. *E. M. Borchard.* Current Hist. July, 1934.

———. The new Cuban treaty. *L. H. Woolsey.* Am. Jour. Int. Law. July, 1934.

———. The imperialism ahead. *Virgil Jordan.* Am. Bankers' Assoc. Jour. Aug., 1934.

**Armament and Disarmament.** The problem of the naval treaties. *M. F. Talbot.* U.S. Naval Inst. Proc. June, 1934.

———. The setting for the 1935 naval conference. *W. V. Pratt.* For. Affairs. July, 1934.

———. Why the disarmament deadlock? *Norman Angell.* Nine. Cent. July, 1934.

———. The new disarmament resolution. *W. Arnold-Foster.* Contemp. Rev. July, 1934.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

**Balkans.** Le pacte balkanique. *C. Vulcan.* Rev. Gén. Droit Int. Pub. July–Aug., 1934.

**British Foreign Relations.** La politique extérieure de l'Angleterre. *E. de Chalandon.* Rev. Sci. Pol. Apr.–June, 1934.

**China.** Open door or great wall? *Owen Lattimore.* Atlan. Mo. July, 1934.

———. China and world peace. *Sao-Ke Alfred Sze.* No. Am. Rev. Aug., 1934.

**Dantzig.** Questions de principe relatives au statut international de Dantzig. *J. Hostie.* Rev. Droit Int. et de Légis. Comp. No. 1, 1934.

**Diplomatic Representation.** Un nouvean protocol de Vienne? *L. Aubain.* Rev. Droit Int. et de Légis. Comp. No. 1, 1934.

**Embargo.** The arms embargo against Bolivia and Paraguay. *C. G. Fenwick.* Am. Jour. Int. Law. July, 1934.

**Europe.** The foreign policy of the Duce. *Dino Grandi.* For. Affairs. July, 1934.

———. The European kaleidoscope. *D. G. Hutton.* M. Barthou's foreign policy. *George Soloveytchik.* Nine. Cent. July, Aug., 1934.

———. Diplomacy in eastern Europe. *F. A. Ogg.* Current Hist. Aug., 1934.

———. Mussolini muscles in. *G. E. W. Johnson.* No. Am. Rev. Aug., 1934.

———. Does Germany mean war? *Roger Chance.* 1914–1934. *G. E. G. Catlin.* The future of the small states. *R. Hercod.* Fort. Rev. July, Aug., 1934.

———. Franco-Germanic relations. *J. F. Thorning.* Social Science. Summer, 1934.

**Inter-American Relations.** La panaméricanisme à Montevideo. *A. de La Pradelle.* Rev. Droit Int. Jan.–Mar., 1934.

———. The withdrawal from Haiti. *Ernest Gruening.* For. Affairs. July, 1934.

———. The Argentine anti-war pact. *P. C. Jessup.* Am. Jour. Int. Law. July, 1934.

———. La vii• conférence panaméricaine. *J. G. Guerrero.* Rev. Gén. Droit Int. Pub. July–Aug., 1934.

———. Haiti for the Haitians. *E. Gruening.* The Chaco war goes on. *H. G. Doyle.* Can Central America unite? *W. A. Roberts.* Current Hist. July, Sept., 1934.

———. The Chaco dispute. *Russell Cooper* and *Mary Mattison.* Geneva Special Studies, vol. 5, no. 2.

**International Conventions.** L'humanisation de la guerre. *H. Mauran* and *Others.* Rev. Droit Int. Jan.–Mar., 1934.

———. The narcotics convention of 1931. *Quincy Wright.* The preparation of international labor conventions. *F. G. Wilson.* Am. Jour. Int. Law. July, 1934.

**International Coöperation.** International coöperation in the suppression of crime. *A. K. Kuhn.* Am. Jour. Int. Law. July, 1934.

**International Law.** Les dernières phases du mouvement pour la protection des droits de l'homme. *A. N. Mandelstam.* Rev. Droit Int. Jan.–Mar., 1934.

———. Les personnes privées sont-elles sujets de droit international? *B. de Geöcze.* Rev. Droit Int. Sci. Dip. et Pol. Apr.–June, 1934.

———. Anciens et nouveaux aspects du droit de la guerre maritime. *R. Sandiford.* Rev. Gén. Droit Int. Pub. May–June, 1934.

———. La technique du droit international et l'organisation de la paix. *H. Kelsen.* Le domaine réservé. *S. Segal.* Rev. Droit Int. et de Légis. Comp. No. 4, 1933, No. 1, 1934.

**International Organization.** International anarchy. *G. de T. Glazebrook.* Dalhousie Rev. July, 1934.

———. International democracy. *Viscount Cecil.* Pol. Quar. July–Sept., 1934.

**International Trade and Finance.** Le problème de l'or. *M. J. Bonn.* L'Esprit Int. Apr., 1934.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

———. L'activité des institutions économiques internationales. *R. Courtin* and *P. Dieterlin*. Rev. Econ. Pol. Mar.–Apr., 1934.

———. War debt realities. *M. J. Bonn*. Fort. Rev. July, 1934.

———. International finance. *H. Powys Gruenwood*. Contemp. Rev. July, 1934.

———. The trade expansion of Japan. *W. O. Scroggs*. For. Affairs. July, 1934.

———. Vers la solution du problème des dettes extérieurs. *E. Hantos*. Jour. Economistes. July, 1934.

———. Why not produce things that pay? *Oliver Williams*. Tariff bargains. *W. P. Black*. No. Am. Rev. July, Aug., 1934.

———. The outlet for soviet-American trade. *V. M. Dean*. For. Policy Rep. Aug. 1, 1934.

———. Japan's drive for world trade. *F. R. Eldridge*. Current Hist., Aug., 1934.

**Japan.** The aims of Japan. *Eurasian*. Pol. Quar. July–Sept., 1934.

**Labor.** The international labor organization. *A. S. Cheyney*. For. Policy Rep. July 4, 1934.

**League of Nations.** Le droit de guerre et le pacte de la société des nations. *G. Sofronie*. Rev. Droit Int. Sci. Dip. et Pol. Jan.–Mar., 1934.

———. Essai sur la crise de la société des nations. *Georges Scelle*. L'Esprit Int. Apr., 1934.

———. Chronique de la société des nations et de l'organisation internationale du travail. *J. Morellet*. Rev. Critique de Droit.Int. Apr.–June, 1934.

———. La sortie de la société des nations. *C. Rousseau*. Rev. Gén. Droit Int. Pub. May–June, 1934.

———. War and the league of nations. *A. L. Lowell*. Atlan. Mo. July, 1934.

**Manchukuo.** La creation et la reconnaissance du Mandchoukouo. *P. Chailley*. Rev. Droit Int. Jan.–Mar., 1934.

———. Manchukuo: the facts. *Newton*. Nat. Rev. June, 1934.

———. Necessity knows no law. *Lord Davies*. Contemp. Rev. July, 1934.

**Migration.** Migration policies and the economic crisis. *A. M. Carr-Saunders*. For. Affairs. July, 1934.

**Minorities.** Les propriétaires des forêts de Bessarabie. *L. Le Fur* and *Others*. Rev. Droit Int. Jan.–Mar., 1934.

**Plebescite.** Beiträge zur Kenntnis der Theorie und Praxis des völkerrechtlichen Plebiszits. *G. Sofronie*. Rev. Droit Int. Sci. Dip. et Pol. Jan.–Mar., Apr.–June, 1934.

**Recognition.** La reconnaissance de l'U.R.S.S. par les États-Unis. *H. N. Howard*. L'Esprit Int. Apr., 1934.

———. La reconnaissance du gouvernement des soviets par les tribunaux americains. *B. Landau*. Jour. Droit Int. May–June, 1934.

———. The effect of non-recognition of Manchukuo. *F. A. Middlebush*. Am. Pol. Sci. Rev. Aug., 1934.

**Russia.** Soviet propaganda in foreign parts. *N. Belina-Podgaetski*. Eng. Rev. June, 1934.

———. Soviet Russia between two fires. *G. E. W. Johnson*. No. Am. Rev. July, 1934.

———. Russia warms to the league. *M. S. Farley*. Current Hist. July, 1934.

**Russo-Japanese Relations.** La rivalité russo-japonaise en extreme-Orient. *M. Percheron*. L'Esprit Int. Apr., 1934.

———. The strategy of another Russo-Japanese war. *T. J. Betts*. Tsarist and soviet policy in the far east. *F. S. Mansvetov*. For. Affairs. July, 1934.

**Saar.** The true interest of Germanism in the Saar. *Anon*. Nat. Rev. July, 1934.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

———. Plebiscite puzzle in the Saar. *Gerhard Hirschfeld.* No. Am. Rev. Aug., 1934.

**Sino-Japanese Relations.** Legal aspects of the Japanese pronouncement in relation to China. *C. C. Hyde.* Am. Jour. Int. Law. July, 1934.

———. The Manchurian "incident" of 1931. *Ben Dorfman.* Harper's. Sept., 1934.

**Tariff.** A conditional tariff. *Philip S. Broughton.* Southwest Rev. July, 1934.

**Traffic in Arms.** Arms manufacturers and the public. *J.* For. Affairs. July, 1934.

**Treaties.** La principe rebus sic stantibus, ses limites rationnelles et sa récente évolution. *C. G. Ténékides.* Rev. Gén. Droit Int. Pub. May–June, 1934.

———. The rôle of the great powers in treaty revision. *H. J. Tobin.* Legal effect of unregistered treaties in practice, under article 18 of the covenant. *Manley O. Hudson.* Am. Jour. Int. Law. July, 1934.

**War and Peace.** The divine right of nations. *E. Ker.* Contemp. Rev. July, 1934.

———. The nature of the next war. *A. W. Smith.* Harper's. July, 1934.

———. The cost of peace. *A. W. Dulles.* A moral program for Europe. *Julien Benda.* For. Affairs. July, 1934.

———. War in the scheme of national and international life. *W. L. Rogers.* Am. Jour. Int. Law. July, 1933.

———. Aërial warfare: secret German plans. The future of warfare. *Wickham Steed.* Nine. Cent. July–Aug., 1934.

———. The lesson of 1914–1934. *G. P. Gooch.* Current Hist. Aug., 1934.

———. The drift towards war. *P. N. Baker.* Yale Rev. Summer, 1934.

## JURISPRUDENCE

### *Books*

*Andia, M. G. de.* Les principes géneraux du droit de la nationalité en Espagne par comparison avec ceux du droit français. Pp. 183. Paris: Rousseau.

*Collinet, P.* Les nouveaux fragments des Institutes de Gaius. Pp. 21. Paris: Recueil Sirey.

*Culver, Dorothy C.,* comp. Bibliography of crime and criminal justice, 1927–1931. Pp. 413. N.Y.: H. W. Wilson.

*Faidherbe, A. J.* La justice distributive. Pp. 181. Paris: Recueil Sirey.

*Gross, H.* Criminal investigation. 3d ed. Pp. 586. London: Sweet & Maxwell.

*Gwathmey, John H.* Legends of Virginia courthouses. Pp. 152. Richmond (Va.): Dietz Pr. Co.

*Hagerty, James E.* Twentieth century crime; eighteenth century methods of control. Pp. 226. Boston: Stratford.

*Lambert, E.* Le congrès international de droit comparé de 1932. Pp. 122. Paris Recueil Sirey.

*Lane, Francis J.* Twelve years in a reformatory. Pp. 176. Elmira (N.Y.): Catholic Press.

*Marshall, Leon C.* and *Marquard, Elva L.* Unlocking the treasuries of the trial courts. Pp. 42. Baltimore: Johns Hopkins Press.

*Molodovsky, V.* Le domicile des étrangers en France au point de vue du droit fiscal. Pp. 374. Paris: Chauny et Quinsac.

*Rhodes, H. T. F.* La science et les recherches criminelles. Paris: Nouv. Rev. Critique.

### *Articles*

**Aliens.** La régime des aliénés et la séquestration arbitraire. *XXX.* Rev. Pol. et Parl. July, 1934.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

———. L'étranger et la justice nationale. *A. Moussa.* Rev. Gén. Droit Int. Pub. July–Aug., 1934.

**Conflict of Laws.** Conflits de lois et compétence internationale dans le domaine de la responsabilité civile délictuelle et quasi-délictuelle. *H. Mazeaud.* Rev. Critique de Droit Int. Apr.–June, 1934.

———. La jurisprudence allemande dans les affaires russes. *H. Freund.* La doctrine du renvoi en droit anglais. *A. Elkin.* Jour. Droit Int. May–June, 1934.

———. Judicial method and economic objectives in conflict of laws. *R. J. Heilman.* Yale Law Jour. May, 1934.

**Crime.** The mentally defective criminal. *R. N. Craig.* Police Jour. Apr., 1934.

———. The reliability of criminal statistics. *E. H. Sutherland* and *C. C. Van Vechten, Jr.* Attitudes of prisoners and teachers toward seriousness of criminal acts. *R. M. Simpson.* Jour. Crim. Law & Crim. May–June, 1934.

———. Organized crime and the banks. *Homer Cummings.* Am. Bankers' Assoc. Jour. Aug., 1934.

———. Crime in Texas. *Karl Ashburn.* Southwest Rev. July, 1934.

**Criminal Law.** America's outworn criminal codes. *William Seagle.* Current Hist. July, 1934.

**Detection.** Debunking the lie-detector. *L. Keeler.* Spectrographic analysis as an aid in identification problems. *C. M. Wilson.* Jour. Crim Law & Crim. May–June, 1934.

**Judiciary.** Small claims courts. Columbia Law Rev. May, 1934.

———. Notes on courts of record in England. *S. E. Thorne.* W. Va. Law Quar. June, 1934.

———. Milwaukee's approach to juvenile and domestic relations cases. *V. L. North.* Marquette Law Rev. June, 1934.

———. Judging the judges. *Mitchell Dawson.* Harper's. Sept., 1934.

**Judicial Method.** Towards legal understanding. *Walter Nelles.* Columbia Law Rev. May, June, 1934.

**Legal Philosophy.** El problema filosofico-juridico de la validez del derecho. *E. G. Maynez.* Rev. Gen. de Derecho y Juris. Oct.–Dec., 1933.

**Penology.** The problem of women in penal and correctional institutions. *E. C. Potter.* Prison reform in Germany, 1933. *N. Cantor.* New Jersey prison and correctional system. *E. Frankel.* Illinois penitentiary and related laws. *W. A. Goldberg.* Prisons and punishments in Denmark. *E. Kampmann.* Jour. Crim. Law & Crim. May–June, 1934.

———. Who believes in prison? *J. F. Fishman* and *V. T. Perlman.* Harper's. Aug., 1934.

**Procedure.** The antecedents of examination before trial in New York. *H. E. Yntema.* Columbia Law Rev. May, 1934.

## LOCAL GOVERNMENT

### *Books*

*Allard, P.* L'anarchie de la police. Pp. 132. Paris: Colmann-Lévy.

*Armstrong, P. C.* and *Robinson, F. E. M.* City and country; a study in fundamental economics. Pp. 156. N.Y.: Macmillan.

*Catou, James R.* Legislative chronicles of the city of Alexandria. Pp. 230. Alexandria (Va.): Newell-Cole Co.

Confidential report of conference on local government units with special reference to highways, held in New York City, April, 1933, under the auspices of the social science research council. (Mimeographed) Pp. 87.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

*Du Bois, Florence.* A guide to statistics of social welfare in New York City. Pp. 332. N.Y.: Columbia Univ. Press.

*Heller Committee for Research.* Standards of relief in selected cities of the United States. (Pamphlet) Berkeley (Cal.): Univ. of Cal.

*Leonard, J. M.*, and *Upson, L. D.* The government of the Detroit metropolitan area. (Michigan local government series) Pp. 121. Detroit: Mich. Commission of Inquiry into County, Township and School Dist. Govt.

*Mondon, E.* Assainissement général des villes et des petites collectivités. Pp. 402. Paris: Dunod.

*Morrison, R. L.*, and *Others.* Local public works administration in Michigan. Pp. 15. Mich. Local Gov. Series. Detroit: Mich. Commission of Inquiry into County, Township, and School Dist. Govt.

*Reed, Thomas Harrison.* Municipal government in the United States. Rev. ed. Pp. 406. N.Y.: Appleton-Century.

*Watson, J. P.* The city real estate tax in Pittsburgh. Pp. 108. Pittsburgh: Bur. of Business Research, Univ. of Pittsburgh.

*Articles*

**Accounting.** Uniform accounting for local governments. *L. W. Morey.* Nat. Mun. Rev. July, 1934.

**Administrative Code.** Preparing an administrative code. *E. L. Bennett.* Pub. Management. July, 1934.

**Airports.** The legal basis of municipal airports. *Robert L. Grover.* Jour. Air Law. July, 1934.

**County.** Government and finances of Hamilton county. *F. W. Prescott.* Univ. of Chattanooga Bull. July, 1934.

**Debts.** Congressional action helps defaulting cities. *C. W. Ham.* The bonded debt of 254 cities. *C. E. Rightor.* Nat. Mun. Rev. June, 1934.

———. Debts, defaults, and delinquencies. State Govt. Aug., 1934.

**Federal Relations.** Washington and the cities, 1934. *P. V. Betters.* Nat. Mun. Rev. Aug., 1934.

**Home Rule.** Home rule experiment in Texas. *Walter Beck.* Nat. Mun. Rev. June, 1934.

**Licenses.** Peddlers' licenses. *H. E. Flynn.* Minn. Municipalities. July, 1934.

**London.** London: a clumsy colossus. *W. A. Robson.* Current Hist. Aug., 1934.

**New York.** New York under the microscope. *R. H. Shreve.* Survey. June 1, 1934.

**Personnel.** Recruitment, training, and promotion of local government officers. *Lady Simon* and *Others.* Pub. Admin. July, 1934.

**Planning.** City and county planning. *Symposium.* Commonwealth Rev. May, 1934.

———. Planning a housing project. *Walter H. Blucher.* What advance planning can do for Ithaca. *Ralph S. Hosmer.* New planning opportunities. *Rexford Newcomb.* City Planning. July, 1934.

**Police.** Criminal statistics as a guide to police efficiency. *R. G. B. Spicer.* Examinations for promotion. *C. M. M. Cook.* The police as a career. *C. Reynes.* Police Jour. Apr., July–Sept., 1934.

**Politics.** The recapture of Grand Rapids. *M. R. Quirk.* Hamilton County, Ohio, recounts some ballots. *E. L. Bennett.* Nat. Mun. Rev. June, Aug., 1934.

**Public Ownership.** Lets have an end to "taxless town." *Judson King.* Ill. Munic. Rev. Aug., 1934.

**Research.** Why a research bureau in the city hall? *J. W. Beach.* Pub. Management. July, 1934.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

**Taxation.** Bringing in taxes through penalties or discounts. *E. D. Greenman.* Nat. Mun. Rev. June, 1934.

**Traffic.** Traffic safety education. *C. F. Taylor.* Police Jour. Apr., 1934.

———. Getting results in traffic safety. *S. J. Williams.* Pub. Management. July, 1934.

**Zoning.** Why municipalities should zone. Minn. Municipalities. July, 1934.

## POLITICAL THEORY AND MISCELLANEOUS

### *Books*

*Adoratsky, V.* Dielectical materialism. N.Y.: Int. Pubs.

Annales du droit et des sciences sociales, 1934. Réforme de l'état. Pp. 487. Paris: Recueil Sirey.

*Anon.* Dictatures et dictateurs. Pp. 100. Paris: Illustrés français.

*Anon.* L'état et la vie économique. 2 vols. Pp. 216, 454. Paris: A. Pedone.

*Anon.* Moneyless government, or, why and why not? Pp. 192. Los Angeles: Wetzel.

*Ayguesparse, A. C.* Magie du capitalisme. Pp. 200. Paris: Maison Coop. du Livre.

*Bodin, C.* Economie dirigée: économie scientifique. Pp. 141. Paris: Recueil Sirey.

*Bougrat, R.* L'obeissance hierarchique. Pp. 166. Paris: Presses Universitaires.

*Childs, Harwood L.* A reference guide to the study of public opinion. Pp. 111. Princeton (N. J.); Princeton Univ. Press.

*Commission on Social Studies.* Conclusions and recommendations. Pp. 179. N.Y.: Scribner.

*Cromwell, J. H. R.* What is sound money, and who will control it, England or America? Pp. 64. N.Y.: Economic Forum.

*Crowther, Samuel.* Public opinion, private business, and public relations. N.Y.: Liveright.

*Curtis, Lionel.* Civitas dei. N.Y.: Macmillan.

*Drabovitch, W.* Fragilité de la liberté et séduction des dictatures. Pp. 240. Paris: Mercure de France.

*Feldman, W. T.* The philosophy of John Dewey; a critical analysis. Pp. 136. Baltimore: Johns Hopkins Press.

*Gaucher, F.* L'histoire du socialisme francais. Pp. 320. Paris: Presses Modernes.

*Gauss, Christian.* A primer for tomorrow. Pp. 308. N.Y.: Scribner's.

*Giraud, R.* Capitalisme et forces nouvelles. Pp. 275. Paris: J. A. Quereuil.

*Greenawalt, William E.* What democracy must do to be saved. Denver (Colo.): Author.

*Guillet, Cephas.* A plan for a just economy. Pp. 32. N.Y.: A. C. Guillet.

*Hadley, Arthur Twining.* Education and government. Pp. 218. New Haven (Ct.): Yale Univ. Press.

*Hamilton, Alexander.* Papers on public credit, commerce, and finance. Ed. by Samuel McKee Jr. Pp. 327. N.Y.: Columbia Univ. Press.

*Hart, Charles A.* ed. Philosophy of society. Pp. 215. Phila.: Dolphin Press.

*Henderson, Fred.* The case for socialism. Rev. ed. Pp. 146. Chicago.; Socialist Party National Headquarters.

*Henson, Herbert Hensley.* The analysis of leadership. (Pamphlet) N.Y.: Oxford Univ. Press.

*Inge, W. R.* Liberty and natural rights. (Pamphlet). N.Y.: Oxford Univ. Press.

*Jeanty, R.* L'assistance sociale. Paris: A. Pedone.

*Johannet, R.* Voyage à travers le capitalisme. Pp. 256. Paris: Edit. Speciales.

*Keitt, Lawrence.* An annotated bibliography of bibliographies of statutory mate-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

rials of the United States. Pp. 208. Cambridge (Mass.): Harvard.

*Kershaw, Francis de Solis.* State, business, and church. Pp. 84, Dallas (Texas): Baulss Upshaw Co.

*Kuhlman, Augustus F.* Public documents, state, municipal, federal, foreign. Pp. 233. Chicago: Amer. Library Assoc.

*Kursheedt, Alphonse H.* The road to good government. Pp. 53. White Plains (N.Y.): Author.

*Le Chatelier, H.* Le Taylorisme. Pp. 240. Paris: Dunod.

*Le Hénaff.* Le pouvoir politique et les forces sociales. Pp. 162. Paris: Recueil Sirey.

*Marcy, G.* Constantin Pecqueur, fondateur du collectivisme d'état. Pp. 268. Paris: Recueil Sirey.

*Morris, Charles William.* Pragmatism and the crisis of democracy. Pp. 27. Chicago: Univ. of Chicago Press.

*Noyelle, H.* Utopie libérale; chimère socialiste; économie dirigée. Pp. 233. Paris: Recueil Sirey.

*Peters, A.* Die Grenzen der Staatsgewalt nach der christlichen Staatslehre. Pp. 63. Köln: Herold-Verl.

*Public administration libraries.* A manual of practice. Pp. 67. Chicago: Public Admin. Service.

*Renard, R. G.* Thomisme de droit sociale. A propos de l'idée du droit social de M. Gurvitch. Pp. 42. Paris: Recueil Sirey.

*Rosenberg, Arthur.* A history of Bolshevism from Marx to the first five-year plan. Pp. 259. N.Y.: Oxford.

*Roux, G.* Révolution. Pp. 256. Paris: Nouv. Edit. Latines.

*Seignobos, Charles.* Étude de politique et de histoire. Pp. 400. Paris: Presses Universitaires.

*Sherman, Merritt M.* Autocracy of class. N.Y.: Putnam.

*Shotwell, James T.* The heritage of freedom. N.Y.: Scribner.

*Steinberg, Samuel,* and *Browdy, Philip.* Laboratory manual in community civics. Pp. 144. N.Y.: Oxford Book Co.

*Varley, Kirton.* Gospel of fascism in five parts. Pp. 227. N.Y.: Generation Press.

*Vitzetelly, Frank H.* ed. The new international year book. Pp. 856. N.Y.: Funk and Wagnalls.

*Wilcox, J. R.,* compiler. Guide to the official publications of the new deal administrations. Pp. 113. (Mimeographed) Chicago: Am. Library Assoc.

*Articles*

**Accounting.** Costs under capitalism and communism. *H. Barger* and *W. T. Baxter.* Jour. Accountancy. Aug., 1934.

**Adams, Henry.** The political philosophy of Henry Adams. *Roger V. Shumate.* Am. Pol. Sci. Rev. Aug., 1934.

**Anarchy.** Can an anarchy be a state? *Thomas Baty.* Am. Jour. Int. Law. July, 1934.

**Contemporary Problems.** Our burden of choice. *M. C. Madeira.* Notes on Roosevelt's America. *Max Ascoli.* Facing east. *E. R. Embree.* Atlan. Mo. June, Sept., 1934.

———. Why liberalism is bankrupt. *Nathaniel Peffer.* Collectivism and human nature. *Carl Dreher.* Harper's. Aug., Sept., 1934.

**Dictatorship.** A latter-day tyranny in the light of Aristotelian prognosis. *C. L. Sherman.* Am. Pol. Sci. Rev. June, 1934.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

**Documents and Archives.** Coördination in the collection of source material: a new deal in documents. *C. W. Smith.* Wash. Hist. Quar. Apr., 1934.

———. Unprinted public archives of the post-colonial period; their availability. *A. R. Newsome.* Am. Hist. Rev. July, 1934.

**Ferry.** Jules Ferry et les traditions républicaines. *Jean Dietz.* Rev. Pol. et Parl. June, July, 1934.

**Government.** The principle of government. *Edward H. Schneider.* New-Church Rev. July, 1934.

———. Internships in practical government. *O. T. Wingo, Jr.* Nat. Mun. Rev. July, 1934.

**Planning.** Planned economy. *Gustav Cassel.* Am. Bankers' Assoc. Jour. July, 1934.

———. Planned economy, past and present. *E. F. Hecksher.* Bankers' Mag. July, 1934.

———. National planning. *Charles W. Eliot* 2d. City Planning. July, 1934.

———. Political consequences of economic planning. *D. Mitrany.* Yale Rev. Summer, 1934.

**Political Behavior.** Aggressive behavior by clients toward public relief administrators. *Gabriel Almond* and *Harold D. Lasswell.* The revolutionary logic of the general strike. *W. H. Crook.* Am. Pol. Sci. Rev. Aug., 1934.

**Political Science.** The teaching personnel in American political science departments. *William Anderson.* Am. Pol. Sci. Rev. Aug., 1934.

**Popular Government.** La crise des élites. *R. B. Mowat.* L'Esprit Int. Apr., 1934.

———. Education for democracy. *Sir E. D. Simon.* Pol. Quar. July–Sept., 1934.

———. A defense of democracy. *George Boas.* Harper's. Sept., 1934.

**Propaganda.** The propagandist in fiction. *Wyndham Lewis.* Current Hist. Aug., 1934.

**Quantitative Method.** Measurement in sociology. *F. N. House.* Limitations of statistics. *W. F. Ogburn.* Am. Jour. Soc. July, 1934.

**Revolution.** The coming American revolution. *Alvin Johnson.* Yale Rev. Summer, 1934.

**Separation of Powers.** The mixed constitution and the separation of powers. *Francis G. Wilson.* Southwestern Soc. Sci. Quar. June, 1934.

**Socialism.** L'avenir du socialisme. *G. D. Cole.* L'Esprit Int. Apr., 1934.

**Social Sciences.** The reintegration of the social sciences. *G. S. Watkins.* Social Science. Summer, 1934.

## GOVERNMENT PUBLICATIONS

MILES O. PRICE

*Law Library, Columbia University*

### AMERICAN

#### UNITED STATES

**Commerce department**

*Foreign and domestic commerce bureau.* World economic review. 1933. (With lists of general references.) Washington: Govt. Ptg. Off., 1934. 290 p.

**Congress**

(The extension of a Federal criminal law is traceable through 73d Congress, 2d session, H. R. 1593–1598, which make Federal offenses of fleeing the state

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

to escape prosecution or giving testimony in certain cases, robbing banks which are members of the Federal reserve system, killing Federal officers, transporting kidnaped persons in interstate commerce, extortion by means of the mail, etc. The measures proposed in these reports, many of which have been translated into law, represent a decided departure from the once prevalent idea that there is no Federal criminal law.)

*House of representatives, Foreign affairs committee.* Prohibit the sale of arms or munitions of war in the United States under certain conditions, report to accompany H. J. Res. 347 . . . (authorizing President to prohibit sale of arms and munitions into Bolivia and Paraguay.) Washington: Govt. Ptg. Off., 1934. (See also Senate, Foreign relations committee, S. Rep. 1153, and Hearings on a bill to prohibit or supervise international trade in arms.)

——— *Indian affairs committee.* Readjustment of Indian affairs, hearing, 37d Congress, 2d session, on H. R. 7902, to grant Indians living under Federal tutelage freedom to organize for purposes of local self-government and economic enterprise . . . Part V. Washington: Govt. Ptg. Off., 1934.

——— *Interstate and foreign commerce committee.* Hearings, 73d Congress, 2d session, on H. R. 6097, to provide for inspecting, classifying and cataloging motion pictures . . . to create a Federal motion picture commission . . . Washington: Govt. Ptg. Off., 1934. 76 p. (It is impossible to examine current government documents carrying proposals such as this, and for unemployment insurance, old age pensions, and others noted in this present list, without being made conscious of the many ways in which the government is touching every kind of human activity.)

——— *Judiciary committee.* Hearings, 73d Congress, 2d session, on H. J. Res. 218 and 313, to amend the Constitution with respect to declarations of war. Washington: Govt. Ptg. Off., 1934. 34 p. (See also the Senate Judiciary committee hearings on S. J. Res. 24, 64 p.)

——— *Labor committee.* Hearings, 73d Congress, 2d session, on H. R. 7598, unemployment insurance. Part 1, Washington: Govt. Ptg. Off., 1934. 68 p. (See also House ways and means committee hearings on unemployment insurance. 1934. 426 p.)

Senate, *Foreign relations committee.* Hearings, 73d Congress, 2d session, relative to protocols concerning adherence of the United States to the Permanent court of international justice. Washington: Govt. Ptg. Off., 1934. 103 p.

*Pensions committee.* Hearings, 73d Congress, 2d session, on S. 493, to provide old age pensions. Washington: Govt. Ptg. Off. 1934. 17 p.

**Labor department**

*Immigration and naturalization bureau.* Judicial review of naturalization cases by appeal or cancellation, by Thomas B. Shoemaker. (Lecture 15). Washington: Govt. Ptg. Off., 1934. 15 p. (A short discussion of a point which has caused much controversy among constitutional lawyers.)

**State department**

(*International [Canadian] boundary commission.*) Joint report upon survey and demarcation of boundary between United States and Canada. . . . Washington: Govt. Ptg. Off., 1934. 318 p. maps. (There is a separate atlas of 18 signed joint maps, but only in a limited edition.)

——— Ratification of the 21st amendment to the Constitution of the United States (repealing the 18th amendment.) Washington: Govt. Ptg. Off., 1934. 23 p. (This little publication answers many questions as to the process of repeal, which states voted to repeal, when it was done, etc.)

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

## FOREIGN AND INTERNATIONAL

AUSTRALIA

*Conference of Commonwealth and state ministers.* Record. Melbourne, 1932.

CHINA

*Yenching university, Peiping, Dept. of political science.* Peiping municipality and the diplomatic quarter, by Robert Moore Duncan. Peiping, 1933. 146 p.

DENMARK

*Ministère des affaires étrangères.* Les traités de commerce et navigation du Danemark. København, 1934. 619 p.

FRANCE

*Ministère des affaires étrangères.* Négociations relatives à la reduction et à la limitation des armaments. Paris, Imp. Nationale, 1934. 73 p.

ITALY

*Stato maggiore, Corpo di.* Lezioni di diritto internazionale marittimo di guerra. Rome, 1934.

MEXICO

*Presidente.* (*Rodriquez.*) The Mexican government's six year plan. Mexico, 1934.

*Secretaria de replaciones exteriores.* Estudio sobre la créacion de un organismo económico financiero Panamerican. Mexico, 1933. 70 p.

RUMANIA

*Ministerul muncii, sānātatu si ocrotirilor sociale.* L'unification des assurances sociales, l'organisation des chambres et de jurisdiction du travail en Roumanie. Bucarest, 1933. 103 p.

SWEDEN

Sveriges och Norges traktater med främmende makter. v. 15–16, 1900–26/10 1905 . . . utgiven af Sten Lewenhaupt, Stockholm, Kungl. Boktryckeriet, 1934. 614 p, maps.

LEAGUE OF NATIONS

*Council committee on technical coöperation between the League of Nations and China.* Report of the technical agent of the Council on his mission in China . . . until April 1st, 1934. Geneva, 1934. 72 p. (General 1934. I.)

——— Incidents which have occurred on the frontier between Hungary and Jugoslavia. Communication from the Hungarian government. Geneva, 1934. 33 p.

——— Communication from the Jugoslavian government. Geneva, 1934. 25 p.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED